

ORIGINAL

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NELSON QUINTANILLA, ALEJANDRO AMAYA, ALEX AMIR
AREVALO, MAYNOR FAJARDO, WALTER GARCIA, JOSE L.
MARTINEZ, PRACELIS MENDEZ, OSMAR W. PAGOADA,
JAVIER QUINTANILLA, EDWIN RIVERA, CARLOS ESCALANTE,
KEVIN GALEANO, LERLY NOE RODRIGUEZ, JOSE VEGA
CASTILLO, JUAN QUINTEROS, and MARCUS TULIO
PEREZ,

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Plaintiffs,

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-against-

Case No:
09-CV-5331

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SUFFOLK PAVING CORP., SUFFOLK ASPHALT CORP.,
LOUIS VECCHIA, CHRISTOPHER VECCHIA,
HELENE VECCHIA, and JOHN DOES 1-5,

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Defendants.

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September 21, 2011
9:50 a.m.

16

4875 Sunrise Highway
Bohemia, New York

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EXAMINATION BEFORE TRIAL of ALEJANDRO AMAYA,

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one of the Plaintiffs herein, taken by the

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Defendants, pursuant to Article 31 of the Civil

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Practice Law and Rules of Testimony, and Notice

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and order, held at the above-mentioned time and

23

place, before Karen LaMendola, a Professional

24

Court Reporter and Notary Public of the State of

25

New York.

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2 A P P E A R A N C E S:

3

4 LAW OFFICES OF LAUREN GOLDBERG, PLLC
5 Attorneys for Plaintiffs
6 501 Fifth Avenue
7 New York, New York 10017

8 (NOT PRESENT)

9

10 LAW OFFICES OF PATRICK E. McNAMARA
11 Co-Counsel for Plaintiffs
12 868 Little East Neck Road
13 West Babylon, New York 11704

14 BY: PATRICK E. McNAMARA, ESQ.

15

16 LAW OFFICES OF IAN WALLACE
17 Co-Counsel for Plaintiffs
18 501 Fifth Avenue
19 New York, New York 10017

20 (NOT PRESENT)

21

22 ZABELL & ASSOCIATES, P.C.
23 Attorneys for Defendants
24 4875 Sunrise Highway
25 Bohemia, New York 11716

BY: SAUL ZABELL, ESQ.

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23 ALSO PRESENT:

24 Margarita Arias, Interpreter
25 Theresa Stahl

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED

by and between the attorneys for the
respective parties herein, that filing, sealing
and certification be and the same are hereby
waived.

IT IS FURTHER STIPULATED AND AGREED

that all objections, except as to the form
of the question shall be reserved to the time of
the trial.

IT IS FURTHER STIPULATED AND AGREED

that the within deposition may be
signed and sworn to before any officer
authorized to administer an oath, with the same
force and effect as if signed and sworn to
before the Court.

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2 M A R G A R I T A A R I A S, the Spanish
3 Interpreter herein, was duly sworn to
4 interpret the questions from English into
5 Spanish and the answers from Spanish into
6 English to the best of her ability:

7 A L E J A N D R O A M A Y A, the Witness
8 herein, having been duly sworn through the
9 Interpreter, was examined and testified as
10 follows:

11 EXAMINATION BY

12 MR. ZABELL:

13 Q Would you please state your full
14 name for the record.

15 A Alejandro Amaya.

16 Q What is your current address?

17 A 146 Wittberg Street, Brentwood,
18 New York 11717.

19 Q Mr. Alejandro?

20 A Yes.

21 Q How are you feeling today?

22 A Good.

23 Q Thank you for the time that you
24 took to dress appropriately for this deposition.
25 Many of your colleagues did not do so.

1 A. Amaya

2 I'm sure you understand that this
3 is a very formal process.

4 A Yes.

5 Q We like to see when people treat
6 it appropriately.

7 MR. ZABELL: Right, Counselor?

8 MR. McNAMARA: Correct.

9 Q You understand that you're at a
10 deposition today; do you not?

11 A Yes.

12 Q At this deposition, I will be
13 asking you questions.

14 Do you understand that?

15 A Yes.

16 Q You are required to provide
17 answers to the questions I ask you.

18 Do you understand that?

19 A Yes.

20 Q If you do not understand a
21 question I ask you, you have an obligation to
22 tell me that you do not understand the question.

23 Do you understand that?

24 A That's fine; yes.

25 Q If you provide an answer to a

1 A. Amaya

2 question I ask you, it will be assumed that you
3 understood the question.

4 Do you understand that?

5 A Yes.

6 Q Are you currently under the
7 influence of any alcohol?

8 A No.

9 Q When was the last time you drank
10 alcohol?

11 A December. I don't usually drink.

12 Q Are you currently under the
13 influence of any prescription drugs?

14 A No.

15 Q Are you currently under the
16 influence of any drugs?

17 A No.

18 Q Are you currently taking any
19 prescription drugs?

20 A No.

21 Q When was the last time you went to
22 a doctor?

23 A I don't recall; seven or eight
24 years.

25 Q Are you married?

1 A. Amaya

2 A Yes.

3 Q What is your wife's name?

4 A Maricela Rivas.

5 Q Do you have children?

6 A No.

7 Q For how long have you been
8 married?

9 A Recent; four months.

10 Q Do you have a marriage license?

11 A No.

12 Q Were you really married, or do you
13 just call her your wife?

14 A I just call her my wife, but we're
15 together.

16 Q So when I asked you if you're
17 married, why didn't you just tell me that I am
18 with someone and did not marry her?

19 A Okay. I'm not married. I'm just
20 together.

21 Q We're starting this deposition on
22 the wrong foot.

23 Do you understand that?

24 A Yes.

25 Q You have already lied to me, and

1 A. Amaya

2 we're just a few questions in.

3 MR. McNAMARA: Objection.

4 Q Do you understand that?

5 A Yes.

6 Q Don't lie to me.

7 Do you understand that?

8 A Yes.

9 Q Did your lawyers explain to you
10 that if you lie at a deposition, it is no
11 different than lying under oath before a Federal
12 Judge?

13 A Yes, I understand that.

14 It's a legal process, and you
15 can't lie, but sometimes the question -- I take
16 it as true, and maybe you understand it as
17 false.

18 Q Did your lawyers explain to you
19 the penalty for perjury for lying under oath?

20 A (No verbal response.)

21 Q Yes or no?

22 A Yes.

23 Q Do you understand that you've
24 already lied; yes or no?

25 A It's just that --

1 A. Amaya

2 Q Yes or no?

3 A -- the question about my wife, you
4 know --

5 Q Yes or no?

6 A If you take that as a lie, then --
7 I simply said that I'm married. I just say that
8 I'm married. If you take that question as a
9 lie, that's your option.

10 Q I take the answer as a lie. I
11 take the question as a natural and normal
12 question.

13 Are you agreeing not to lie
14 anymore during this deposition?

15 A No.

16 Q So you are going to lie during
17 this deposition?

18 A No.

19 Q I'm going to ask you this question
20 again: Are you agreeing not to lie anymore
21 during this deposition?

22 A I'm not going to lie anymore.

23 Q Do you promise?

24 MR. McNAMARA: Objection.

25 A Yes.

1 A. Amaya

2 Q Are you sorry that you lied
3 before?

4 MR. McNAMARA: Objection.

5 A Yes, I'm sorry.

6 Q I accept your apology.

7 (Document consisting of a copy of
8 Mr. Amaya's personal identification was
9 marked as Defendants' Exhibit Number 6,
10 for identification, as of this date.)

11 Q Your attorney had you give me this
12 document just before we began.

13 I'm going to show you the document
14 identified as Defendants' Exhibit Number 6.

15 Do you know what that document is?

16 A Yes, it's my personal
17 identification.

18 Q Is that you?

19 A Yes.

20 Q Look at me, please.

21 Is all the information on there
22 truthful and accurate?

23 A Yes.

24 Q I'm going to ask you that question
25 again. Keep in mind that we know the answer to

1 A. Amaya

2 this question.

3 MR. McNAMARA: Objection.

4 Q Is all the information on there
5 truthful and accurate?

6 A Yes, it's truthful.

7 Q Thank you.

8 Are you currently employed?

9 A Yes.

10 Q Where are you currently employed?

11 A Lunati Paving Construction.

12 Q When did you start working for
13 Lunati Paving Construction?

14 A I don't recall exactly, but it was
15 November or at the end of October of 2010.

16 Q Did you ever work for Lunati
17 Paving Construction prior to October or November
18 of 2010?

19 A For Ralphie, no.

20 Q Did you ever work for Lunati prior
21 to November or October of 2010?

22 A I gave you my response. I'm not
23 sure if it was at the end of October or in
24 November. I can't give you an exact date
25 because I don't recall.

1 A. Amaya

2 Q Did you ever work for Ralph Lunati
3 before October or November of 2010?

4 A No.

5 Q Truth?

6 A Yes.

7 MR. ZABELL: This is not going to
8 go well.

9 Q In 2001, who did you work for?

10 A 2001?

11 Q That's what I said.

12 A No one. I wasn't in this country
13 yet.

14 Q Where were you?

15 A In El Salvador.

16 Q In 2002?

17 A I was in El Salvador.

18 Q In 2003?

19 A I was El Salvador.

20 Q In 2004?

21 A I was in El Salvador.

22 Q In 2005?

23 A In 2005, I entered the
24 United States.

25 Q [REDACTED]

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A. Amaya

A [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

MR. McNAMARA: Counselor, I'd like to object here and say that any answers that come from your questioning are going to be subject to the protective order, so I'm instructing my witness not to answer.

MR. ZABELL: He already answered.

MR. McNAMARA: Tell the witness not to answer, please.

THE INTERPRETER: He already said no.

Q What was your first employment in the United States?

A It was at a company -- a construction company. At that time, it was called Pave-Co Paving, something like that.

Q You worked there for 2005?

A Yes.

Q All of 2005?

A No. I worked there about two

1 A. Amaya

2 months for that company.

3 Q What two months?

4 A It was -- it was May and June
5 of 2005.

6 Q Did you tell them that your name
7 was Alejandro Amaya?

8 A Yes.

9 Q Did you ever go by any other
10 names, other than Alejandro Amaya?

11 A No, only by Alejandro.

12 Q When you worked for Pave-Co
13 in 2005, did they pay you in check or cash?

14 A By check.

15 Q They paid you for all your hours
16 in check; right?

17 A Yes.

18 Q Do you have those checks?

19 A Yes. I have those at home.

20 Q Did you stop working for Pave-Co
21 in June of 2005?

22 A Yes.

23 Q Are you sure it was June of 2005?

24 A Yes.

25 Q Where did you go to work in June

1 A. Amaya

2 of 2005?

3 A I worked for Baseball Heaven at
4 their baseball fields.

5 Q From what period of time to what
6 period of time did you work for Baseball Heaven?

7 A (No verbal response.)

8 Q Cookie?

9 A No, thank you.

10 MR. ZABELL: Counselor?

11 MR. McNAMARA: No, thank you,

12 Counselor.

13 Q You can answer now.

14 A What was the question?

15 Q From what period of time to what
16 period of time did you work for Baseball Heaven?

17 A I really don't remember.

18 Q How were you paid by Baseball Heaven?

19 A What?

20 Q How were you paid by Baseball Heaven?

21 A Baseball Heaven, they paid me

22 cash.

23 Q How much cash did they pay you?

24 A Five hundred per week.

25 Q Do you have any documents that

1 A. Amaya

2 show the period of time that you worked for
3 Baseball Heaven?

4 A No.

5 Q How many years did you work for
6 Baseball Heaven?

7 A I didn't even work one year, but I
8 don't remember the exact time.

9 Q It could have been 2005 or 2006;
10 correct?

11 MR. McNAMARA: Objection.

12 A No. I'm confused.

13 Q I know.

14 A I'm confused.

15 Q I know.

16 A Yes, because I started working for
17 Suffolk Paving in 2005.

18 Q Where do you live?

19 A In Brentwood.

20 Q Very close to here; right?

21 A Close.

22 Q You drove here today?

23 A Yes.

24 Q And you know when you worked for
25 Pave-Co, you were paid in a check for all the

1 A. Amaya

2 time you worked; correct?

3 A Yes.

4 Q You have those pay stubs that will
5 show when you worked at Pave-Co; correct?

6 A Yes.

7 Q And you know exactly where they
8 are; right?

9 A Yes.

10 Q If we sent you home now, you would
11 know exactly where to get them; correct?

12 A Yes.

13 Q We may have to do that later
14 today; okay?

15 A Okay.

16 Q Is that a problem for you?

17 A No problem.

18 Q No problem; good.

19 After you left Pave-Co in June
20 of 2005, you say you worked for Baseball Heaven;
21 correct?

22 A No.

23 Q Don't lie to me.

24 I asked you if you already

25 testified that when you left Pave-Co, you went

1 A. Amaya

2 to work for Baseball Heaven in 2005; correct?

3 A It's true that I answered that,
4 but I'm confused.

5 Q So you lied to me again?

6 MR. McNAMARA: Objection.

7 Q Right?

8 A (No verbal response.)

9 Q Right; yes or no?

10 A Yes.

11 Q Stop lying to me.

12 Do you understand?

13 A Yes.

14 Q I will accept your apology.

15 MR. McNAMARA: Objection.

16 Q Okay?

17 A Okay.

18 Q You said you worked for Pave-Co in
19 May or June of 2005; correct?

20 A No.

21 Q So you lied to me?

22 A Can we start again with the
23 interview?

24 Q This is not an interview, sir.

25 This is a deposition. You're here to provide

1 A. Amaya

2 testimony regarding your lawsuit against the
3 defendants.

4 Do you understand that?

5 A Yes.

6 Q I am here as Counsel for the
7 defendants. My job is to explore all the facts
8 you may have to offer.

9 If you should provide information
10 to me that indicates that you violated the law
11 or provide information that is clearly perjured
12 testimony, I will be obligated to take all
13 appropriate steps to protect my client's
14 interests.

15 Do you understand that?

16 A Yes.

17 Q That is why I am urging you to
18 only tell the truth.

19 Do you understand that?

20 A Yes.

21 Q You have already acknowledged to
22 telling me lies throughout this deposition so
23 far; correct?

24 A Yes. That's why --

25 Q I'm urging you to stop lying.

1 A. Amaya

2 Do you understand?

3 A Yes.

4 Q You only hurt yourself when you
5 lie.

6 Do you understand?

7 A Yes.

8 Q I would like it very much if you
9 were to make a statement saying that you will
10 stop lying at this deposition.

11 MR. McNAMARA: Objection.

12 Q Please do so.

13 A Yes.

14 Q Yes, what?

15 MR. McNAMARA: Objection.

16 Counselor, you can't just tell my
17 witness what to say. Your job is to ask
18 questions.

19 Q Yes, what?

20 A Yes, I understand what you're
21 saying.

22 Q What is it that I'm saying?

23 MR. ZABELL: Let him finish, and
24 then you can make your objection.

25 Q Go ahead and answer.

1 A. Amaya

2 A I understand you're saying that if
3 I lie, I'm violating a law, so if you don't want
4 to accept that -- I'm confused. It was a year
5 before that I worked for Pave-Co and Baseball
6 Heaven.

7 Q So you worked for Pave-Co and
8 Baseball Heaven in 2004?

9 A 2004.

10 Q Does Pave-Co and Baseball Heaven
11 exist in El Salvador?

12 A No.

13 Q So you lied to me when you said
14 you came to the United States in 2005; correct?

15 A No.

16 Q Whoa, whoa, whoa.

17 Did you not testify that you came
18 to the United States in 2005, to New York?

19 A Yes. Because I was confused
20 thinking that I had come in from El Salvador
21 in 2005, but the truth is I came in 2004.

22 Q [REDACTED]

23 [REDACTED]

24 MR. McNAMARA: Objection.

25 MR. ZABEL: He can answer yes or

1 A. Amaya

2 no.

3 A No.

4 Q No?

5 A [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q What personal documents do you
9 have that will show --

10 MR. McNAMARA: Objection.

11 Instruct my witness to please not answer
12 that question.

13 Q [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 MR. McNAMARA: Counselor --

19 MR. ZABELL: It's just a ticket.

20 I'm not asking him about his immigration
21 status.

22 MR. McNAMARA: Objection. It
23 speaks to --

24 MR. ZABELL: It's not a problem if
25 he doesn't know when he came to the

1 A. Amaya

2 United States.

3 He's already testified that he
4 came in 2005, and now he's changing that.
5 I'm asking him if there are papers, other
6 than his immigration papers, that would
7 show when he actually arrived here.

8 It has nothing to do with his
9 immigration status, so if he tells me
10 that he has a plane, train, submarine
11 ticket; that's fine.

12 MR. McNAMARA: Well, he hasn't.
13 He's already -- he has already --

14 Q [REDACTED]

15 that [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 MR. ZABELL: Off the record.

22 (Whereupon, a discussion was held
23 off the record.)

24 Q Did you come to the United States
25 in 2005, like you testified?

1 A. Amaya

2 A No, I came in 2004.

3 Q So you testified incorrectly?

4 A Yes.

5 Q You lied?

6 MR. McNAMARA: Objection.

7 Q Correct?

8 A Yes.

9 Q When did you work for Pave-Co?

10 A Pave-Co, in 2004.

11 Q When in 2004?

12 A It's May and June.

13 Q Are you sure?

14 A No -- I'm sure that I worked, but
15 the exact months that I worked...

16 Q Do you remember when I asked you
17 before if you were sure if you worked in May or
18 June in 2005 for Pave-Co?

19 A (No verbal response.)

20 Q Do you remember me asking you that
21 before?

22 A Yes, I remember that you asked me.

23 Q And do you remember telling me
24 that you were sure you worked in May and June
25 of 2005 for Pave-Co?

1 A. Amaya

2 A Yes.

3 Q And you were wrong; correct?

4 A I was incorrect.

5 Q You lied to me; correct?

6 A Yes.

7 MR. ZABELL: Counselor, not unlike
8 our situation yesterday, I'm going to ask
9 you to instruct your client when we take
10 a break around lunchtime, to go home, and
11 get these documents.

12 MR. McNAMARA: I'm not surprised
13 by that instruction at all.

14 MR. ZABELL: Are you going to
15 instruct him to do that?

16 MR. McNAMARA: Yes, I'm going to
17 instruct him to do that.

18 MR. ZABELL: Could you do it
19 without rolling your eyes at me and
20 expressing some attitude because that's
21 just inappropriate.

22 MR. McNAMARA: I apologize for
23 rolling my eyes.

24 MR. ZABELL: This is not your
25 first time at the rodeo.

1 A. Amaya

2 MR. McNAMARA: It's not.

3 MR. ZABELL: And this is not your
4 first time at the rodeo with me.

5 MR. McNAMARA: Right, I agree. I
6 agree.

7 MR. ZABELL: I accept your
8 apology.

9 MR. McNAMARA: I haven't
10 apologized.

11 MR. ZABELL: You have.

12 MR. McNAMARA: Did I? I may have.

13 Q Your attorney is going to instruct
14 you, during the lunch break, to go home, and get
15 any documents you have from Pave-Co and from
16 Baseball Heaven that will show when you worked,
17 including, but not limited to, your pay stubs.

18 Do you understand?

19 A Yes.

20 Q Do you understand that you are
21 suing the defendants going all the way back
22 to 2003?

23 A I don't understand the question; no.

24 Q Do you know that you're suing the
25 defendants claiming you worked for them in 2003?

1 A. Amaya

2 A No.

3 Q That wasn't explained to you?

4 A I didn't work for the defendants
5 in 2003.

6 Q So if you're suing them, claiming
7 you worked for them in 2003, it would be false
8 and frivolous?

9 MR. McNAMARA: Objection.

10 Q Correct?

11 A I didn't work 2003. I came into
12 the United States in 2004.

13 Q So if your lawsuit says you did,
14 it would be a lie; correct?

15 MR. McNAMARA: Can we go off the
16 record?

17 MR. ZABELL: Not until he answers.

18 A I don't understand the question
19 well.

20 Q No?

21 Your lawsuit, if it says that
22 you're claiming damages against the defendant
23 for work going as far back as 2003, that would
24 be false; correct?

25 A No, I didn't work for them.

1 A. Amaya

2 Q I know you didn't work for them,
3 but your lawsuit says you did.

4 MR. McNAMARA: Objection.

5 A No.

6 Q No, it doesn't say you did?

7 A No.

8 Q Do you know what your lawsuit
9 says?

10 MR. McNAMARA: Objection.

11 Q You can answer.

12 It's okay if you don't.

13 A (No verbal response.)

14 Q Do you know what your lawsuit
15 says?

16 A I don't know exactly what my
17 lawsuit says because -- I do know that there is
18 a lawsuit and who am I suing?

19 Q Are you asking me who are you
20 suing?

21 A Suffolk Paving, Suffolk Asphalt,
22 Louis Vecchia, Helena Vecchia, and
23 Christopher Vecchia.

24 Q Do you know what the lawsuit says?

25 A I don't know exactly what the

1 A. Amaya

2 lawsuit says.

3 Q Do you know, generally, what it
4 says?

5 A Yes, I know the basics. I know
6 why I'm filing a lawsuit.

7 Q Why are you filing a lawsuit?

8 A I'm filing a lawsuit, because I
9 wasn't paid the overtime hours that were worked
10 for the company.

11 Q What else?

12 A That's the only thing that I'm
13 fighting for in my lawsuit, for my overtime
14 hours, for the hours that were not paid to me
15 during the time that I worked for that company.

16 Q Do you know you're claiming those
17 overtime hours going all the way back to 2003?

18 MR. McNAMARA: Objection.

19 A No. I'm suing from 2005
20 through 2010.

21 Q Did you stop working in 2010?

22 A I stopped working in 2010.

23 Q Why did you stop working?

24 A Because they didn't give me any
25 more work. They didn't give me no explanation.

1 A. Amaya

2 All of a sudden, they didn't speak to me. They
3 didn't tell me whether there was work or not.

4 I would call the person in charge,
5 the immediate supervisor, who was Tommy. He's
6 in charge of all personnel. He didn't answer
7 the telephone, so then I found out through a
8 another person that there was no more work for
9 me.

10 Q Who was that other person?

11 A It's a person that works for the
12 company. He's a driver.

13 Q Who?

14 A A driver. His name -- I don't
15 know it.

16 What's his name?

17 Q I don't know what his name is.
18 That's why I'm asking you.

19 A Yes, I know his name.

20 Q Good. Tell me his name.

21 A It's Kenny. I only know him by
22 Kenny.

23 Q Is Kenny your supervisor?

24 A No, he wasn't my supervisor. But
25 I went to the job where I had been working to

1 A. Amaya

2 see why, to found out why, if they were going to
3 give me more work or not, and then he was at
4 that job, and it was a surprise for him. He's
5 the one who takes the material in the trucks, so
6 he was with another person, and I don't know him
7 either.

8 Q "Him" being who?

9 A His name is Eddie. He works more
10 than anyone in the yard, but that day, he was
11 working outside, so then Kenny said that there
12 was no more work for me. We had work, but he
13 didn't tell me from whom.

14 Q Do you have a telephone?

15 A Me? Yes.

16 Q What's your telephone number?

17 A It's (631)-433-3453.

18 Q For how long have you had that
19 telephone number?

20 A About two-and-a-half years,
21 approximately.

22 Q Did you ever provide that
23 telephone number to Suffolk Paving or
24 Suffolk Asphalt?

25 A Yes. The previous one that I had,

1 A. Amaya

2 which is not this one.

3 Q What is the previous one?

4 A It's 6 -- I don't remember the
5 number.

6 Q Really? You don't remember your
7 own telephone number?

8 MR. McNAMARA: Objection.

9 A I really don't remember.

10 Q How would you characterize your
11 memory?

12 A Maybe not that good.

13 Q Maybe bad?

14 A Maybe not bad, but maybe it's not
15 perfect, but I don't consider myself to have
16 problems.

17 Q You don't remember your telephone
18 number?

19 A For me, it's normal if I don't
20 remember.

21 What can I do?

22 Q Do you have a car?

23 A Yes.

24 Q What kind of car?

25 A Nissan Quest.

1 A. Amaya

2 Q Minivan?

3 A A minivan.

4 Q For how long have you had a Nissan

5 Quest?

6 A Almost two years.

7 Q Before that, did you have a

8 vehicle?

9 A Yes.

10 Q What was that?

11 A Nissan Sentra.

12 Q You like Nissans?

13 A Yes.

14 Q For how long did you have that

15 Nissan Sentra?

16 A About four years.

17 Q [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Q [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 A. Amaya

2 Q Are you comfortable breaking the
3 law because you need to?

4 A It's not that I want to break it,
5 but it's a necessity for me to survive here. I
6 have to work, and in order to work, I have to
7 have transportation.

8 Q [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] Did you ever lie?

12 [REDACTED] No.

13 [REDACTED] Think about your answer.

14 [REDACTED] MR. McNAMARA: Objection.

15 [REDACTED] I'm going to ask you again.

16 [REDACTED] Did you ever lie?

17 [REDACTED] The question about the license,
18 I'm not lying to you.

19 Q No, ever? Did you ever lie?

20 A No.

21 Q Didn't you lie to me here today?

22 MR. McNAMARA: Objection.

23 A Yes, but I apologize. I was
24 telling you that I was confused.

25 Q I'm asking you if you ever lied to

1 A. Amaya

2 get something that you wanted?

3 A No.

4 Q In your entire life?

5 A No.

6 Q Not even a little white lie?

7 A Little white lies, but not big
8 lies that involve me and problems.

9 Q So you have told little white lies
10 to get something you wanted; right?

11 MR. McNAMARA: Objection.

12 A To get something for myself?

13 Q Or to avoid problems?

14 A No.

15 Q Did you ever lie to the woman you
16 call your wife?

17 A No.

18 Q Did you ever lie to travel into
19 the United States?

20 A No.

21 Q Did you ever conceal facts?

22 MR. McNAMARA: Objection.

23 Q You may answer.

24 MR. McNAMARA: I'm instructing him
25 not to answer.

1 A. Amaya

2 MR. ZABELL: It's a general
3 question as to whether or not this man
4 has ever concealed facts.

5 He can answer that.

6 A No.

7 Q I thought you promised not to lie
8 to me; right?

9 A (No verbal response.)

10 Q Didn't you promise not to lie to
11 me?

12 MR. McNAMARA: Objection.

13 Q You may answer.

14 A Yes.

15 Q Why are you lying to me now?

16 MR. McNAMARA: Objection.

17 A I'm not lying. If maybe I've
18 answered a question and you've said that I've
19 lied, I'm correcting it.

20 Q Did you ever conceal facts?

21 A (No verbal response.)

22 Q Look at me.

23 Did you ever conceal facts?

24 A No.

25 Q Do you want to take a break?

1 A. Amaya

2 MR. McNAMARA: Counselor, you
3 don't have to instruct my witness. We
4 can continue with the questioning.

5 MR. ZABELL: You said you wanted
6 to take a break before. I'm giving you
7 that opportunity to take your break now.

8 MR. McNAMARA: I didn't say I
9 wanted to take a break.

10 MR. ZABELL: I'm sorry, but it was
11 on the record a couple of questions back
12 that you wanted to take a break, and I
13 said after he finishes answering the
14 question, and you said, okay, and thank
15 you.

16 MR. McNAMARA: I wanted to talk
17 shortly off the record.

18 MR. ZABELL: Okay, do you want to
19 talk shortly off the record?

20 MR. McNAMARA: No, we're fine now,
21 and we don't need to take a break. I'll
22 let you know when my witness needs to
23 take a break.

24 MR. ZABELL: Eat a cookie,
25 Counselor.

1 A. Amaya

2 MR. McNAMARA: All right. They do
3 smell good.

4 Q Mr. Amaya?

5 A Yes.

6 Q Did you prepare for this
7 deposition in any way, other than putting on
8 cologne?

9 A No.

10 Q Did you speak to your attorney in
11 preparation for this deposition?

12 A No.

13 Q When was the last time you spoke
14 to your attorneys?

15 A About three month ago, I think.
16 For this interview, I didn't receive any
17 preparation or anything.

18 Q Did they ever show you any
19 documents in advance of this deposition?

20 A Yes. When we filed the lawsuit,
21 they gave me documents for the lawsuit, but it
22 was in English, so I don't know how to read.

23 Q Do you know how to read in
24 Spanish?

25 A Yes.

1 A. Amaya

2 Q Did they translate the documents
3 into Spanish for you?

4 A Yes.

5 Q Who translated those documents?

6 MR. McNAMARA: I'm instructing the
7 witness not to answer.

8 This is attorney/client privilege.
9 It is. You're going to tell me it's not.
10 It is and he's not going to answer your
11 question, and he's not going to answer
12 any question about attorney/client
13 communications.

14 MR. ZABELL: Counselor, you're
15 trying very hard, and I appreciate that,
16 but you're actually laughing at yourself
17 as you're saying it, so I'm having a hard
18 time taking you seriously.

19 MR. McNAMARA: I'm completely
20 serious and if --

21 MR. ZABELL: Are you denying that
22 you are not grinning from ear-to-ear?

23 MR. McNAMARA: If anything, it's
24 due to the face that you're making.

25 MR. ZABELL: Are you denying that

1 A. Amaya

2 you are grinning ear-to-ear?

3 MR. McNAMARA: Are you denying
4 that you're grinning right now?

5 MR. ZABEL: Answer my question.

6 MR. McNAMARA: No, I'm not denying
7 it --

8 MR. ZABELL: Right, okay.

9 MR. McNAMARA: -- but it's really
10 because of the face that you're making at
11 me.

12 Q Mr. Amaya, you said your attorneys
13 gave you documents.

14 You read those documents in
15 advance of this deposition; correct?

16 MR. McNAMARA: Objection.

17 Q Did you read those documents in
18 advance of this deposition?

19 A No.

20 Q Did you read any of the documents
21 that your attorneys gave you?

22 A Did I see them?

23 Q Did you read them?

24 A Yes, the Spanish translation; yes.

25 Q What documents were translated

1 A. Amaya

2 into Spanish for you? Just identify them for
3 me.

4 A Only where they let us know about
5 the lawsuit, and why we were suing, and it was
6 about the rights that we're requesting.

7 Q Did you see a copy of the actual
8 lawsuit translated into Spanish?

9 A Copy? Yes.

10 Q So they actually translated the
11 lawsuit into Spanish for you?

12 A Yes.

13 Q Then, you know that you're suing
14 for periods of time before you arrived in the
15 United States.

16 MR. McNAMARA: Objection.

17 Q You may answer. When he objects,
18 you may disregard his objections; okay.

19 Please provide an answer.

20 A Can you repeat the question?

21 Q [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 A No. I'm suing from 2005 to 2010.

1 A. Amaya

2 MR. McNAMARA: Objection.

3 MR. ZABELL: Are you objecting to
4 his answer?

5 Q Who explained that to you?

6 A My attorney.

7 Q Patrick?

8 A No. We have the lawsuit.

9 Q Do you know who Patrick is?

10 A Yes.

11 Q When did you meet Patrick?

12 A Today.

13 Q Well, that was nice.

14 He introduced himself to you?

15 A Yes.

16 Q In Spanish?

17 A No, in English.

18 Q But do you understand English?

19 A I understand a little.

20 Q How do you communicate on the job
21 site?

22 A Because there are more people who
23 translate. There are Hispanics who know
24 Spanish.

25 Q Oh, that's very nice.

1 A. Amaya

2 In 2005, who did you work for?

3 A In 2005, I worked for
4 Suffolk Paving.

5 Q In 2006, who did you work for?

6 A For Suffolk Paving.

7 Q In 2007, who did you work for?

8 A For Suffolk Paving.

9 Q In 2008, who did you work for?

10 A For Suffolk Paving.

11 Q In 2009, who did you work for?

12 A For Suffolk Paving.

13 Q In 2010, who did you work for?

14 A For Suffolk Paving, but I didn't
15 work the whole year.

16 Q Who did you work for in 2010?

17 A Part for Suffolk Paving and part
18 for Ralphie Lunati; the Lunati Paving
19 Construction.

20 Q When in 2010, did you start
21 working for Ralphie Lunati, exactly?

22 A Exactly, I don't remember, but it
23 was at the end of 2010. It was after I stopped
24 working for Suffolk Paving.

25 Q Did you receive pay stubs from

1 A. Amaya

2 Ralphie Lunati?

3 A Yes.

4 Q Do you still have those?

5 A Yes.

6 Q Will those show us when you
7 started working for Ralphie Lunati?

8 A Yes. I have those. I have check
9 stubs.

10 Q So when you go home this afternoon
11 during our break, you can bring those back to
12 us, as well; correct?

13 A Yes.

14 Q Will you?

15 A Yes.

16 Q Very good.

17 Were you ever in a union?

18 A No.

19 Q In 2005, how much were you paid
20 per hour by Suffolk Paving?

21 A Sixteen an hour.

22 Q What type of work did you do?

23 A Regular laborer.

24 Q What kind of jobs did you work on?

25 A It was asphalt.

1 A. Amaya

2 Q Did you ever receive more than \$16
3 an hour in 2005?

4 A No, \$16, \$16.

5 Q In 2006, how much did you make an
6 hour?

7 A Sixteen, the same.

8 Q Did you ever make more than \$16 an
9 hour in 2006?

10 A No.

11 Q In 2007, how much did you make an
12 hour?

13 A Sixteen, the same.

14 Q Did you ever receive more per hour
15 in 2007 from Suffolk Paving?

16 A There, I'm not sure if it was 2007
17 when I got a raise or 2008, but I did get a
18 raise to \$18.75 an hour, but I don't remember if
19 it was 2007 or 2008.

20 Q In 2008, how much did you make per
21 hour?

22 A I think \$18.75, but I'm not really
23 sure if I was earning that at that time.

24 Q In 2009, how much were you making
25 per hour from Suffolk Paving?

1 A. Amaya

2 A It was \$18.75.

3 Q In 2010, how much were you making
4 from Suffolk Paving per hour?

5 A It was \$18.75.

6 Q How much an hour are you making
7 working for Ralph Lunati?

8 A Twenty an hour.

9 Q Did you receive paychecks from
10 Suffolk Paving from 2005 to 2010?

11 A Yes.

12 Q Those paychecks showed the hours
13 that you worked; correct?

14 A The check, yes, but not all of the
15 hours that we worked were there.

16 Q And you also received cash
17 payments from Suffolk Paving; correct?

18 A No.

19 Q You never received cash from
20 Suffolk Paving?

21 A I never received cash.

22 Q You know all your coworkers said
23 they received cash?

24 A Yes, because each one is
25 different. I don't know the agreement that they

1 A. Amaya

2 had come to, why they got cash, but in my case,
3 I was never given cash.

4 Q In 2005, what were some of the
5 specific jobs that you worked on?

6 A I can't really tell you exactly
7 about the jobs because they were different. It
8 was mostly in Suffolk, but there was also work
9 in Nassau.

10 Q Good.

11 Tell me some of the names of the
12 jobs.

13 A Some of the names of the jobs?

14 Q Yes.

15 A I can't really give you exact
16 names, but maybe the places, the towns. It's
17 Riverhead, this whole area, the area of Medford,
18 Brentwood, this area here, Bohemia, Central
19 Islip, and the Town of Babylon.

20 Q What were the names of some of the
21 projects that you worked on?

22 A They don't really give you names,
23 because they didn't let me know the names of the
24 projects because I wasn't in charge. I was just
25 a regular laborer.

1 A. Amaya

2 Q But you would go to the projects;
3 would you not?

4 A Yes.

5 Q You could look around you and see
6 what the project is; right?

7 A Yes.

8 Q What streets did you do in
9 Riverhead?

10 A No, I don't remember the names of
11 the streets.

12 Q What streets did you work on in
13 Central Islip?

14 A Central Islip.
15 You asked me for specific streets.
16 I can't really give you the names.

17 Q What streets did you work on in
18 Bohemia?

19 A I don't recall streets or names of
20 projects.

21 Q Do you remember any parking lots
22 that you did?

23 A Yes.

24 Q What are some of the names?

25 A There are many, but the names, I

1 A. Amaya

2 didn't have. I would go to work with the person
3 in charge. He would tell me you have to do
4 this, so I would only do what the person in
5 charge told me.

6 Q So you can't identify any of the
7 projects that you worked on; can you?

8 A No.

9 Q From 2005 all the way up to 2010;
10 correct?

11 A Well, I can identify a job. I can
12 take you to a place, and I can tell you that I
13 worked there.

14 Q I have no interest in going
15 anywhere with you, sir.

16 A Okay.

17 Q I do have an interest in exploring
18 the truth with you.

19 Can you tell me the names of any
20 of the projects that you worked on with
21 Suffolk Paving from 2005 to 2010?

22 A I don't recall. Names of projects
23 and names of streets, I can't give you because
24 that wasn't my job. I went to work, to the
25 place, and they would say you have to do this

1 A. Amaya

2 and this. I would only do my job.

3 Q So you just said that you would go
4 to work at the place, and they would say, work,
5 and that's what you did; correct?

6 A Yes.

7 Q Who would tell you to go to work
8 at a place?

9 A Well, from the office, they would
10 send us. They would give us a work order
11 specifying the work, but that work order would
12 be given to the person in charge of the group.

13 Q How did you get to the work office
14 every morning?

15 A I would get to the office every
16 morning with the person in charge that I worked
17 with. He would take me there.

18 Q Mendez would drive you; right?

19 A Mendez.

20 Q Pracelis Mendez?

21 A Pracelis.

22 Q He drove you to work every
23 morning; right?

24 A Yes.

25 Q He waited outside of your house

1 A. Amaya

2 until you woke up in the morning?

3 A No. I would go to his house, and
4 from his house, we would leave for the yard.

5 Q Really? Because his GPS reports
6 show that he would go to your house.

7 A No.

8 Q If his GPS reports show that he
9 would go from his house in the morning to your
10 house, those GPS reports would be false?

11 A I really don't know if the report
12 is false or not, but that's my truth. I would
13 go from my house to Mendez's house, and from
14 Mendez's house, we would leave for the Suffolk
15 Paving yard.

16 Q Why didn't you just go to the work
17 site every morning?

18 A No, because I was working almost
19 always with him, so that's why I would go from
20 my house to his house.

21 Q So you went along with him for the
22 ride?

23 A Yes.

24 Q Did you eat breakfast today?

25 A Yes.

1 A. Amaya

2 Q What did you eat?

3 A Normal breakfast.

4 Q What is a "normal breakfast" for
5 you?

6 A For me, it's beans, fried eggs,
7 and banana.

8 Q Did you make that at home or at a
9 deli?

10 A No, that, I made at home.

11 Q When you were working for
12 Suffolk Paving, you would get breakfast at a
13 deli; correct?

14 A Yes.

15 Q Would Mendez go to the deli with
16 you?

17 A No.

18 Q He doesn't eat much; right?

19 A He doesn't eat much, but at
20 lunchtime, he would buy my food, and I would
21 stay at work working, because we would only take
22 a maximum of ten minutes. We would eat and then
23 we would go back to work.

24 Q That's a great answer, but it's
25 not an answer to question that I asked you.

1 A. Amaya

2 I understand that you were prepped
3 and told to get certain information out at this
4 deposition; okay?

5 A (No verbal response.)

6 Q Okay?

7 MR. McNAMARA: Objection.

8 A No.

9 Q Your job today is not to get your
10 story out but to answer the questions that I ask
11 you.

12 Do you understand?

13 A Yes.

14 Q Just answer the questions I ask
15 you and don't lie.

16 A Okay.

17 Q Okay?

18 A Okay.

19 Q No more lies today; okay?

20 MR. McNAMARA: Objection.

21 Q Okay?

22 A That's fine.

23 Q So there will be no more lies?

24 MR. McNAMARA: Objection.

25 Counselor, stop telling my witness

1 A. Amaya

2 what to say.

3 A No.

4 Q Okay.

5 Do you know what a diary is?

6 A Diary?

7 Q Yes.

8 A I know about two kinds of diaries;
9 one is the news about everything that happens in
10 the country, and the other one is a diary like a
11 personal diary.

12 Q Did you ever keep a personal
13 diary?

14 A No.

15 Q Did you ever keep a list of all
16 the days that you worked?

17 A No, because the person in charge
18 did all of that.

19 Q Did you ever keep a list of all
20 the hours you worked?

21 A No.

22 Q Didn't you just testify that
23 Mendez was the person in charge on the job?

24 A Yes, he's in charge.

25 Q So Mendez kept a list; is that

1 A. Amaya

2 what your testimony is?

3 A Yes.

4 Q Did you ever see Mendez's list?

5 A Yes, sometimes I saw it.

6 Q What did it look like?

7 A It was a sheet where the days were
8 specified for the whole week and where all the
9 hours worked were put down.

10 Q Did you put down your own hours?

11 A No, but I knew the hours that I
12 worked per week.

13 Q How did you know them?

14 A Easy. Because in one week, I
15 would keep track of how many hours. It wasn't
16 necessary to write them or to keep a personal
17 report, but I did know the hours that I worked.

18 Q How many hours did you work?

19 A It varied from fifty to sixty
20 hours, fifty-five.

21 Q So your work schedule varied from
22 fifty to sixty hours; correct?

23 A Yes.

24 Q After you would get to the shop in
25 the morning, you would drive to a deli; correct?

1 A. Amaya

2 A Before. When I left my house, I
3 would stop and buy my breakfast.

4 Q After you left the shop; correct?

5 A No, before. Before getting to the
6 shop, I had already bought my breakfast.

7 Q You know the GPS reports show that
8 you would go for breakfast after leaving the
9 shop?

10 A No. I would always buy my
11 breakfast before getting there.

12 Q When you left the shop, you would
13 leave with Mendez; correct?

14 A Yes.

15 Q Was anybody else with you?

16 A No. It was, most of the time,
17 just the two of us.

18 Q Sometimes there was somebody else?

19 A Sometimes, yes; sometimes.

20 Q Would Mendez ever go to a deli
21 after leaving the shop in the morning, like he
22 testified?

23 A He did it maybe once or twice.

24 Q How about going to a 7-Eleven?

25 A Yes, he used to go to 7-Eleven.

1 A. Amaya

2 Q So he would go to the 7-Eleven
3 after leaving the shop in the morning; correct?

4 A Yes, sometimes.

5 Q And he would get coffee; right?

6 A Yes.

7 Q He likes their coffee; right?

8 A Yes.

9 Q Do you like their coffee?

10 A Yes.

11 Q What do you like about it?

12 A Because I like it.

13 Q What do you like about it?

14 A About the coffee?

15 Q Yes.

16 A Because it's according to one's
17 taste.

18 Q Is it tasty?

19 A Yes.

20 Q Is it worth the price?

21 A Yes.

22 Q How do you take your coffee?

23 A Half milk and half coffee.

24 Q Sugar?

25 A A little.

1 A. Amaya

2 Q Sweet and low?

3 A Flower?

4 Q What flower? Just sugar?

5 A Just sugar.

6 Q How does Mendez take his coffee?

7 A He also likes it with a lot of

8 milk.

9 Q Regular milk or low-fat milk?

10 A Regular milk.

11 Q What about the flavored milks?

12 A No, regular.

13 Q Does he like hazelnut coffee?

14 A Hazelnut coffee?

15 Q Yes.

16 A Yes, I like coffee.

17 Q French vanilla coffee?

18 A Yes, I've tasted it, and I like

19 it.

20 Q What about Mendez, what kind of
21 coffee does he like?

22 A I've always seen that he likes
23 regular coffee.

24 Q Sometimes you would get him
25 coffee, and sometimes he would get you coffee;

1 A. Amaya

2 right?

3 A No. Normally, he would always buy
4 me.

5 Q Oh, he was very generous; right?

6 A Yes.

7 Q I see.

8 So you worked for Suffolk Paving
9 for five years; correct?

10 A Five years. Five, six, seven,
11 eight, nine, ten; five.

12 Q In those five years, you got a
13 paycheck each week you worked; correct?

14 A Yes.

15 Q You got a paycheck for the hours
16 you worked; correct?

17 A Yes, the hours worked, but not all
18 of the ones that were worked.

19 Q Were you ever paid overtime at
20 Suffolk Paving?

21 A Sometimes one, two, or three hours
22 of additional overtime.

23 Q You took lunch every day that you
24 worked at Suffolk Paving; right?

25 A I hardly ever took a half-an-hour

1 A. Amaya

2 because with Mendez, you really don't take a
3 break. He likes to eat and then work right
4 away.

5 Q Do you like soccer or baseball?

6 A I like both of the them. I like
7 both sports.

8 Q Which sports have you played on
9 the job site?

10 A That I recall, none of them.

11 Q Mendez says he plays baseball on
12 the job site. He says he keeps a mitt and a
13 baseball.

14 A No.

15 Q He lied to me?

16 A If that's what he said, but I
17 never saw a bat or a glove in his car.

18 Q What about a soccer ball?

19 A Soccer ball, yes.

20 Q You've seen that in his car?

21 A Sometimes I've seen them, but in
22 my case, I've never played soccer or any other
23 sport at work.

24 Q Did you ever see any of your
25 coworkers play soccer at work?

1 A. Amaya

2 A No. Because at work, it was
3 almost always me and Mendez. I don't know about
4 the other group.

5 Q Are you sure?

6 A Yes.

7 Q How much money are you suing the
8 defendants for?

9 A I can't give you an exact number.

10 Q Give me a rough number.

11 A A rough number?

12 Q Yes.

13 A From sixty to \$75,000.

14 Q How do you arrive at the sixty to
15 \$75,000?

16 A It's kind of what I figured out,
17 because of the time that I worked.

18 Q Tell me what calculations you
19 made.

20 A Because I work weekly work hours.
21 There's always ten, fifteen, or twenty hours
22 missing per week.

23 Q Always; right?

24 A Always.

25 Q What about on weeks where there

1 A. Amaya

2 were rain days?

3 A When there was a lot of water --
4 when there was rain days, we didn't work.

5 Q On weeks where there were rain
6 days, ten, fifteen, twenty hours were not
7 missing from your paycheck; right?

8 A No, but when we worked four days
9 of the week, there was more than forty hours per
10 week because the least that we worked was ten
11 hours per day.

12 Q So if you work ten hours per day
13 for four days of the week, you worked forty
14 hours; correct?

15 A Forty hours.

16 Q Then, if you subtract the travel
17 time, you worked less than forty hours; correct?

18 A No. That's from the moment we
19 would get to the yard until the hour that we
20 finished the work.

21 Q But you didn't have to go to the
22 yard. You could have gone directly to the job
23 site; correct?

24 A But all the personnel went
25 directly to the yard to pick up their work

1 A. Amaya

2 papers.

3 Q But they didn't have to. They
4 could have gone directly to the job site;
5 correct?

6 A (No verbal response.)

7 Q Correct?

8 A Yes, that's true.

9 Q But you only followed Mendez
10 because he was your ride; correct?

11 A (No verbal response.)

12 Q Correct?

13 A It's true.

14 Q You were only at the shop for
15 maybe five minutes every morning; correct?

16 A Sometimes more --

17 Q Yes?

18 A Sometimes --

19 Q Yes?

20 A Yes.

21 Q Because you were waiting for
22 Mendez?

23 A We had to pick up tools. Mendez
24 always -- the time that it took Mendez to go to
25 the office to pick up the work papers, I would

1 A. Amaya

2 stay back and load the truck with tools and also
3 putting the diesel in for the truck.

4 Q The truck always had the tools in
5 it from the previous day; correct?

6 A Yes. But sometimes he needs more
7 tools and we had to load them.

8 Q But you could have gone to the job
9 directly in the morning, and you only followed
10 Mendez to work because he was your ride;
11 correct?

12 A (No verbal response.)

13 Q Correct?

14 A It's true that I went to the job.

15 Q Just answer the questions.

16 And I understand that you
17 acknowledge that as a correct statement;
18 correct?

19 A Yes.

20 MR. ZABELL: I think we should
21 take a break now and try and coordinate
22 when we are going to take our lunch break
23 and send him home to get those documents.

24 MR. McNAMARA: Sure.

25 (Whereupon, a recess was taken at

1 A. Amaya

2 this time from 11:02 a.m. until

3 11:44 a.m.)

4 Q Mr. Alejandro?

5 A Yes.

6 Q Who is Jose Alejandro?

7 A Jose Alejandro, me. I have two

8 names; Jose Alejandro Amaya Romero.

9 Q Why do you have two names?

10 A Because in El Salvador, we use two

11 names. No one knows me by Jose. They only know

12 me by Alejandro. Even though in my original

13 document, it says, Jose Alejandro Amaya Romero.

14 Q What original documents?

15 A The document that -- the ID that I

16 showed you. You have the copy.

17 Q Well, the ID that you showed me

18 doesn't have two names. It has four names;

19 correct?

20 A Two first names and two last

21 names.

22 Q So you have two first names and

23 two last names?

24 A Yes.

25 Q And Amaya goes with Romero;

1 A. Amaya

2 correct?

3 A Yes.

4 Q And Jose goes with Alejandro;

5 correct?

6 A Yes.

7 Q [REDACTED]

8 [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED]

11 Q You didn't start working in this
12 country under any of your real names?

13 MR. McNAMARA: Objection.

14 Q You may answer.

15 A No.

16 Q Why would you lie about something
17 like that?

18 MR. McNAMARA: Objection.

19 A I'm not lying. I always worked
20 using Alejandro Amaya.

21 Q Is it Alejandro Amaya, or is it
22 Amaya Alejandro?

23 A Alejandro Amaya.

24 Q Why didn't you use Romero Amaya;
25 isn't that one of your names?

1 A. Amaya

2 A That's one of my names, but...

3 Q And Alejandro Jose is another
4 name; correct?

5 A Jose Alejandro are my first names.

6 Q But Amaya Alejandro is not a name?

7 A Amaya Alejandro? Yes, that's my
8 name; however you want to say it. Alejandro
9 Amaya or Amaya Alejandro.

10 Q But your name is either Amaya
11 Romero or Jose Alejandro; correct?

12 A Yes, my name is Jose Alejandro
13 Amaya Romero.

14 Q But you're only choosing to use
15 Amaya Alejandro?

16 A Yes.

17 Q Why?

18 A Because that's how I decided
19 working. I started working using Alejandro
20 Amaya because no one knows me as Jose. They
21 only know me as Alejandro.

22 Q Have you ever been sued either in
23 this country or in any other?

24 A No.

25 Q Have you ever been arrested?

1 A. Amaya

2 A No.

3 Q Either in this country or another?

4 A No, in none.

5 Q Do you owe anybody money?

6 A No.

7 Q Either in this country or another?

8 A In this country, the only one that
9 owes me is Suffolk Paving, Suffolk Asphalt.

10 Those are the companies that -- the only ones
11 that owe me, and that's why we're in this
12 process.

13 Q Did you ever collect unemployment
14 benefits?

15 A No.

16 Q Did you ever apply for
17 unemployment benefits?

18 A No.

19 [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED]

22 MR. McNAMARA: I'd like --

23 [REDACTED] [REDACTED] [REDACTED]

24 [REDACTED] [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED]

1 A. Amaya

2 Q Why?

3 MR. McNAMARA: I'd like to have --
4 all those questions and answers arising
5 from those questions should be marked
6 confidential, pursuant to the
7 confidentiality agreement.

8 MR. ZABELL: I'll wait until I get
9 the answer before I determine whether or
10 not I can consent.

11 Q Answer.

12 A No.

13 Q N [REDACTED]
14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] A [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] MR. McNAMARA: I'm going to
[REDACTED] instruct my witness not to answer.

[REDACTED] MR. ZABELL: You don't have a
[REDACTED] basis.

[REDACTED] MR. McNAMARA: Yes, I do.

[REDACTED] MR. ZABELL: What's your basis?

1 A. Amaya

2 MR. McNAMARA: My basis is that I
3 believe his answer may concern his
4 immigration status.

5 MR. ZABELL: Do you know if it
6 will or it won't?

7 MR. McNAMARA: Do you?

8 I'm instructing my client not to
9 answer.

10 MR. ZABELL: I have no idea what
11 his answer is, and if you don't know what
12 his answer is going to be either, then
13 you have no ability --

14 MR. McNAMARA: Counselor,
15 Counselor --

16 MR. ZABELL: You're going to let
17 me finish and give me that courtesy
18 because that is what I do for you.

19 Do you understand, Counselor?

20 MR. McNAMARA: I do.

21 MR. ZABELL: I am asking him why
22 he does not believe he can fill out the
23 papers. If he gives me an answer that
24 touches on something that's privileged,
25 we'll designate it as such, and I won't

1 A. Amaya

2 pursue it any further. But right now,
3 you indicated to me that you don't know
4 what he is going to say, and I do not
5 know what he is going to say.

6 Because we do not know, you do not
7 have a good-faith basis to advise him not
8 the answer the question.

9 Are we clear on that?

10 You'll let him answer, and if it
11 turns out that what you suspect is true,
12 we'll designate it as confidential and
13 I'll move on.

14 MR. McNAMARA: All right. That's
15 fine.

16 Q [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 Q [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 A. Amaya

2 Q [REDACTED]

3 A [REDACTED] [REDACTED]

4 Q [REDACTED]

5 You have to tell us why you can't,
6 and your lawyer is advising you to answer.

7 A Okay. Let me speak with my
8 attorney then because --

9 Q You can speak to your attorney
10 only after you answer the question.

11 Answer the question.

12 A [REDACTED] [REDACTED] [REDACTED]

13 [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

17 Q Okay.

18 MR. ZABELL: You go speak to your
19 attorney now, like you asked.

20 MR. McNAMARA: We're going to mark
21 this as confidential.

22 MR. ZABELL: No. What was just
23 said, there is not need a for it to be
24 marked as confidential because he didn't
25 give an answer.

1 A. Amaya

2 All he said was that there are
3 legal issues, and he wants to speak to
4 his attorney, so he answered the
5 question, and now you can take a break.
6 And I'm assuming that you will not be
7 coaching him, unless you're going to
8 coach him to take the Fifth Amendment,
9 which you're free to you.

10 Right, Counselor?

11 MR. McNAMARA: I got it,
12 Counselor. We'll be right back.

13 (Whereupon, a recess was taken at
14 this time from 11:53 a.m. until
15 12:01 p.m.)

16 MR. McNAMARA: I'm instructing my
17 witness not to answer any questions that
18 you posed before the break just because
19 his answers are going to lead to a
20 violation of the protective order.

21 MR. ZABELL: Is that -- and I'll
22 take your representation. Is that what
23 he represented to you out in the hallway?

24 MR. McNAMARA: Yes.

25 MR. ZABELL: Then, I'll accept

1 A. Amaya

2 your representation.

3 It's now 12:04. I think we
4 decided that we were going to take a
5 break around now for lunch.

6 Are you going to send him to go
7 get his documents?

8 MR. McNAMARA: Yes.

9 MR. ZABELL: Let's try and get
10 back here at about 1:00.

11 MR. McNAMARA: Okay, that's fine.

12 (Whereupon, a luncheon recess was
13 taken from 12:05 p.m. until 1:35 p.m.)

14 Q Mr. Alejandro?

15 A Yes.

16 Q Do you understand that you're
17 still under oath?

18 A Yes.

19 Q You know that; right?

20 A Yes.

21 Q No lying; okay?

22 A Yes.

23 Q You promise?

24 A Yes.

25 Q Yes, what?

1 A. Amaya

2 A Yes, I promise.

3 Q You brought me back some
4 documents; did you not?

5 A Yes.

6 Q What are these documents?

7 A They're proof of the W-2s and
8 check stubs.

9 Q Didn't your lawyers ask for these
10 documents before today?

11 A Yes, they did. From
12 Suffolk Paving, not from another company.

13 Q Did you provide all these
14 documents to your attorneys previously?

15 MR. McNAMARA: Objection.

16 A Yes.

17 Q Okay. They just never turned it
18 over to me; right?

19 A (No verbal response.)

20 Q Right?

21 A I don't know.

22 Q Why don't you know?

23 MR. McNAMARA: Objection.

24 Q Why don't you know?

25 A I don't know. They know their

1 A. Amaya

2 job. I don't know what they do or if they were
3 supposed to tell you.

4 (Document consisting of a copy of
5 four check stubs belonging to Mr. Amaya
6 was marked as Defendants' Exhibit 7, for
7 identification, as of this date.)

8 Q I'm going to show you a document
9 that's identified as Defendants' Exhibit Number 7.

10 Do you know what that is?

11 A Yes, a check stub.

12 Q Just one?

13 A There are four, three, four.

14 MR. ZABELL: Excuse me a second.

15 (Whereupon, a recess was taken at
16 this time.)

17 Q You had just counted four; did you
18 not?

19 A Four, yes.

20 Q Exhibit 7, how many pages are
21 there?

22 A Two, three, four.

23 Q Is it true that Exhibit 7 is an
24 accurate representation of the documents that
25 you provided to us?

1 A. Amaya

2 A Okay.

3 Q Yes or no?

4 A Yes.

5 Q You can take your originals back
6 now (handing).

7 Exhibit 7 shows pay stubs that you
8 received from Powell & Lunati Paving and
9 Construction, LLC for July and August of 2011;
10 is that correct?

11 A Yes.

12 Q And you're still working for
13 Powell & Lunati Paving and Construction;
14 correct?

15 A Yes.

16 Q When did you start working for
17 Powell & Lunati Paving and Construction?

18 A I don't know exactly when, but it
19 was towards the end of 2010.

20 Q I'm going to show you another set
21 of documents.

22 Do you know what those are
23 (handing)?

24 A They are check stubs.

25 Q Is that an accurate copy of those

1 A. Amaya

2 check stubs?

3 A (Perusing.) Yes.

4 Q What do those pay stubs show?

5 A Hours worked for this company.

6 Q And you worked, roughly, the same
7 hours for Powell & Lunati Paving and
8 Construction that you did for Suffolk Asphalt;
9 correct?

10 A No.

11 Q Did you work more or less?

12 A I worked a little less.

13 Q You worked a little less at
14 Suffolk Asphalt than you did at Powell & Lunati?

15 A Yes, I worked more at Suffolk.

16 Q A little more than you testified;
17 right?

18 A Yes.

19 Q Like one or two more hours a week?

20 A No.

21 Q Tell me.

22 A We're talking about from ten
23 hours, approximately, more per week at
24 Suffolk Paving.

25 Q That's what you consider a little

1 A. Amaya

2 more; right?

3 A Yes.

4 (Document consisting of a copy of
5 Mr. Amaya's W-2 Form was marked as
6 Defendants' Exhibit 8, for
7 identification, as of this date.)

8 Q I'm going to show you another
9 document identified as Defendants' Exhibit
10 Number 8.

11 Do you know what that document is
12 (handing)?

13 A Yes, I know what it is. They're
14 copies of the W-2s.

15 Q Are they accurate copies of your W-2?

16 A Yes.

17 Q It shows in 2005, you earned over
18 \$30,000; correct?

19 A Yes.

20 Q In 2006, you earned over \$37,000;
21 correct?

22 A Yes.

23 Q In 2007, you earned over \$39,000;
24 correct?

25 A Yes.

1 A. Amaya

2 Q In 2008, you only earned \$30,000.

3 Do you know why?

4 A Can you repeat the question?

5 Q In 2008, you only earned about

6 \$30,000.

7 Do you know why?

8 A Because supposedly that's the time
9 that was worked throughout the whole year.

10 Q What does that mean?

11 A Because it's not the whole time.

12 Q You didn't work for Suffolk Paving
13 for the whole year?

14 A Yes, I did work all year, but this
15 is not the real number for the time that I
16 worked.

17 Q So you made more money than is
18 reflected on this document?

19 A Yes.

20 Q How were you paid that money?

21 A All of this money was paid to me
22 by check which is the whole year.

23 Q So you're saying that
24 Suffolk Paving paid you more than the \$30,425.49?

25 A No.

1 A. Amaya

2 Q Come on. Stop lying and tell the
3 truth.

4 MR. McNAMARA: Objection.

5 Q Stop lying and tell the truth.

6 MR. McNAMARA: Objection.

7 Q Are you saying that you made more
8 than \$30,425.49 from Suffolk Paving?

9 Answer truthfully.

10 A This is what they paid me in this
11 year. You're asking me and I'm responding what
12 the paper says.

13 Q In what year?

14 A In 2008.

15 Q So in 2008, how much money did
16 Suffolk Paving pay you?

17 A They paid me \$30,425.

18 Q Then, why did you just say you
19 made more money than that in 2008 from
20 Suffolk Paving?

21 A Yes. Because he never paid the
22 overtime that I worked.

23 Q You just testified that you made
24 more money than this, than is reflected in your
25 W-2 Form.

1 A. Amaya

2 Why did you say that?

3 A Because I earned more money
4 because he -- according to him, this is what I
5 earned that year, but this wasn't -- because he
6 didn't pay all of the overtime.

7 Q So you're saying that you made
8 more money than is actually reflected on this
9 document?

10 A Yes, I did.

11 Q Why are you lying?

12 MR. McNAMARA: Objection.

13 A I'm not lying. I'm telling you --

14 Q How much more money did you
15 receive in 2008; \$1, \$2, \$3?

16 MR. McNAMARA: Objection.

17 Q How much more did you receive
18 in 2008 than is reflected on your W-2 Form?

19 MR. McNAMARA: Objection.

20 A I can't give you an exact amount,
21 because I'm not an accountant.

22 Q Give me an estimated amount.

23 A \$15,000 in a year.

24 Q So you received \$15,000 more a
25 year than is reflected on your W-2?

1 A. Amaya

2 A No, I haven't received it. I
3 received what the W-2 says here (indicating).

4 Q That's not what you just testified
5 to.

6 Stop lying.

7 MR. McNAMARA: Counselor, I don't
8 think he understands the question.

9 MR. ZABELL: Then, he has an
10 obligation to tell me that he doesn't
11 understand the question; doesn't he,
12 Counselor?

13 MR. McNAMARA: I don't think that
14 he understands that he doesn't understand
15 the question.

16 MR. ZABELL: Well, that's the
17 price he pays for being a litigant, I
18 guess.

19 Q Why did you testify that you
20 received more than \$30,425.49 in 2008?

21 A Excuse me?

22 Q Answer the question.

23 A I already answered it.

24 What I earned in 2008 was \$30,425,
25 what I earned for the company, but it's not the

1 A. Amaya

2 exact amount, because here (indicating) I'm not
3 being paid overtime.

4 Q Turn the page.

5 A (Witness complies.)

6 Q In 2009, how much did you make?

7 A I made \$33,048.

8 Q That's how much you earned from
9 Suffolk Paving; correct?

10 A Yes.

11 Q Turn the page.

12 A (Witness complies.)

13 Q In 2010, how much did you make
14 from Suffolk Paving?

15 A I made \$6,191.

16 Q In 2010, you worked for
17 Suffolk Paving Corp.; correct?

18 A Yes.

19 Q You also worked for another
20 company too; didn't you?

21 A I worked for another company at
22 the end of the year 2010.

23 Q What were the names of the two
24 companies that you worked for in 2010?

25 A Suffolk Paving and Lunati Paving,

1 A. Amaya

2 and Suffolk Paving includes Suffolk Asphalt.

3 Q Did you get paid by
4 Suffolk Asphalt?

5 A Yes.

6 Q Show me any paychecks you received
7 from Suffolk Asphalt.

8 A Yes.

9 Q Show them to me.

10 A They're here (indicating).

11 Q Show them to me.

12 A I don't have them.

13 Q You don't have them at all?

14 A I have them at home, but this is
15 the proof of the Suffolk Asphalt from my taxes,
16 from my W-2.

17 Q Why didn't you bring anything from
18 Suffolk Asphalt?

19 A Excuse me?

20 Q Answer the question.

21 A Yes, I did work for
22 Suffolk Asphalt.

23 Q Let's go to 2009.

24 A (Witness complies.)

25 Q Who did you work for in 2009?

1 A. Amaya

2 A For Suffolk Paving.

3 Q Did you work for anyone else,
4 other than Suffolk Paving?

5 A No.

6 Q Only worked for Suffolk Paving;
7 correct?

8 A Yes.

9 Q Go to 2008.

10 A (Witness complies.)

11 Q Who did you work for in 2008?

12 MR. McNAMARA: Objection.

13 A For Suffolk Paving.

14 Q And you only worked for
15 Suffolk Paving in 2008; correct?

16 A Yes.

17 Q You didn't work for anybody else
18 in 2008; correct?

19 A Yes.

20 Q Turn the page to 2007.

21 A (Witness complies.)

22 Q Who did you work for in 2007?

23 A For Suffolk Paving.

24 Q And you only worked for
25 Suffolk Paving; correct?

1 A. Amaya

2 A Yes.

3 Q You didn't work for anybody else,
4 other than Suffolk Paving in 2007; correct?

5 A No.

6 Q Turn the page to 2006.

7 A (Witness complies.)

8 Q Who did you work for in 2006?

9 A Suffolk Paving.

10 Q And you only worked for
11 Suffolk Paving in 2006; correct?

12 A Yes.

13 Q You didn't work for anybody else
14 in 2006; correct?

15 A That's true.

16 Q Turn the page.

17 A (Witness complies.)

18 Q Who did you work for in 2005?

19 A For Suffolk Paving.

20 Q And you only worked for
21 Suffolk Paving in 2005; right?

22 A Yes.

23 Q And you didn't work for anybody
24 else; correct?

25 A No.

1 A. Amaya

2 Q Do you remember when I asked you
3 to stop lying to me?

4 A Yes.

5 Q Are you lying to me now?

6 A No.

7 Q I'm going to show you this
8 (handing).

9 Do you know what that is?

10 A It's a W-2.

11 Q For what year?

12 A Here (indicating) it says 2005.

13 (Document consisting of a copy of
14 Mr. Amaya's W-2 from Pave-Co was marked
15 as Defendants' Exhibit 9, for
16 identification, as of this date.)

17 Q Now I'm going to show you the
18 marked exhibit.

19 Is that an identical copy of that
20 W-2?

21 A Yes.

22 Q So you worked for somebody else
23 in 2005; didn't you?

24 A Yes.

25 Q Why did you lie to me before?

1 A. Amaya

2 A (No verbal response.)

3 Q Why did you lie?

4 A (No verbal response.)

5 Q Just answer.

6 MR. McNAMARA: Objection.

7 A I worked for Suffolk Paving.

8 Q In 2005, you worked for this
9 company. What's this company?

10 A Pave-Co.

11 Q Is Pave-Co Suffolk Paving?

12 A No.

13 I worked for Pave-Co in 2004, but
14 this is what they sent me, and this is what I
15 declared on my taxes in 2005.

16 Q They sent you a 2005 W-2
17 indicating that you worked for them in 2005;
18 correct?

19 A Here (indicating) it
20 indicates 2005, but I worked there in 2004.

21 Q So their records are lying;
22 correct?

23 A I don't know because I don't
24 know --

25 Q Well, either their records are

1 A. Amaya

2 lying or you're lying.

3 Which one is it?

4 A (No verbal response.)

5 Q Who's lying?

6 MR. McNAMARA: Can we go off the
7 record for a moment?

8 MR. ZABELL: Not until he answers.

9 Q Who's lying?

10 A (No verbal response.)

11 Q You have to answer the question.

12 A I really don't know.

13 Q You're lying; aren't you?

14 A What?

15 Q You're lying; aren't you?

16 MR. McNAMARA: Objection.

17 Q You're lying to me now; aren't
18 you?

19 MR. McNAMARA: Objection.

20 Q Answer the question.

21 A Yes. Because I'm saying that and
22 I assure you that I worked in 2004, because it's
23 impossible that I worked for both companies at
24 the same time. In 2005, I worked for
25 Suffolk Paving.

1 A. Amaya

2 I don't know why this (indicating)
3 says 2002. This (indicating), I declared
4 in 2005 when I got it in January or February,
5 which is when you have to fill out your taxes.

6 Q Well, don't you have any pay stubs
7 for Pave-Co?

8 A No, not now.

9 Q What did you do with them?

10 A No, I didn't keep them.

11 MR. McNAMARA: Objection.

12 Q You destroyed them; didn't you?

13 MR. McNAMARA: Objection.

14 A I have some from Suffolk and for
15 the company that I work for now, which is Lunati
16 Paving.

17 Q You destroyed the pay stubs;
18 correct?

19 MR. McNAMARA: Objection.

20 A Yes. Because I didn't think it
21 was important.

22 Q Well, it is important.

23 A And later, I decided to keep the
24 stubs.

25 Q It is important because now

1 A. Amaya

2 somebody is lying. Either Pave-Co is lying or
3 you're lying, and I'm entitled to find out the
4 truth.

5 A If you want to know if I worked
6 for Pave-Co, I'm showing you that I worked for
7 Pave-Co. If this isn't sufficient proof, then I
8 don't know what to do.

9 Q Well, that shows that you worked
10 for Pave-Co in 2005, and you're saying here,
11 under oath, that you didn't work for them in
12 2005.

13 So who's lying; you or Pave-Co?

14 A (No verbal response.)

15 Q I want an answer.

16 A I worked for Pave-Co in 2004.

17 Q You're saying that you never
18 worked for them in 2005; is that your testimony?

19 A Yes.

20 Q So you're saying that Pave-Co is
21 lying?

22 A I don't know if Pave-Co is lying,
23 but I worked for Pave-Co in 2004.

24 Q You're saying that the document
25 that you gave to me that indicates that you

1 A. Amaya

2 worked for Pave-Co in 2005 is false and
3 fraudulent; correct?

4 MR. McNAMARA: Objection.

5 A I can't say if it's false or not.
6 I'm not a speciality to be able to say if this
7 document is false.

8 Q You gave me that document.

9 A Yes, I gave you the document.

10 Q You gave me the document that
11 showed you worked for Pave-Co in 2005; the same
12 time that you just testified you only worked for
13 Suffolk Paving; correct?

14 A Correct, in 2005. Here
15 (indicating) is the proof from 2005, because I
16 worked for Suffolk Paving.

17 Q Yes.

18 You worked for Suffolk Paving and
19 you worked for Pave-Co; correct?

20 Just like in 2010, you worked for
21 Suffolk Paving and you worked for Lunati;
22 correct?

23 A Yes.

24 Q So you really did work for Pave-Co
25 in 2005; correct?

1 A. Amaya

2 A No.

3 Q Ask your attorney if he believes
4 you. Go ahead. Look at him.

5 THE WITNESS: Do you believe me,
6 Attorney?

7 MR. ZABELL: Go ahead. Answer
8 him.

9 Do you want me to swear you in?

10 Do you swear or affirm to tell the
11 truth, the whole truth, and nothing but
12 the truth?

13 We'll swear you in. You could
14 tell him that you don't believe him.

15 Do you want to take a break and
16 speak to him off the record, even though
17 there is a question pending?

18 MR. McNAMARA: No.

19 I don't think that Mr. Amaya is
20 lying. I think that, if anything, he may
21 be mistaken, or he may misremember when
22 he worked for Pave-Co.

23 Q Mr. Amaya, that's a fancy way of
24 saying he doesn't believe you.

25 MR. McNAMARA: Objection.

1 A. Amaya

2 That's not true. That's not the
3 case. I think he's --

4 MR. ZABELL: You're under oath.
5 You had me swear you in, so stop it.
6 It's too early in your career for this,
7 Counselor.

8 MR. McNAMARA: I think that he's
9 mistaken. I don't think it's
10 intentional.

11 MR. ZABELL: Which is a nice way
12 of saying that you don't believe him.

13 Do you want to take a few minutes,
14 look at the document, and try to figure
15 some things out?

16 MR. McNAMARA: Can we go off the
17 record for a minute?

18 MR. ZABELL: Yes.

19 (Whereupon, a discussion was held
20 off the record.)

21 Q No more lying; right?

22 A No.

23 Q Before you is Defendants' Exhibit
24 Number 9; correct?

25 A Yes.

1 A. Amaya

2 Q This is a 2005 W-2 form; correct?

3 A Yes.

4 Q It shows that you worked for
5 Pave-Co Industries in 2005; correct?

6 A I don't recall exactly.

7 Q I'm not asking you to recall. I'm
8 asking you to look at Defendants' Exhibit Number 9.
9 It says, "W-2 Wages and Tax Statement for 2005;"
10 correct?

11 A Yes.

12 Q You're saying that you don't know
13 if this document is accurate or inaccurate;
14 correct?

15 A I can't really say if it's
16 accurate.

17 Q But you gave me that document, did
18 you not?

19 A Yes.

20 Q When you gave me that document,
21 did you believe it to be accurate?

22 A (No verbal response.)

23 Q Help me out here. We all know the
24 answer. Come on.

25 A Yes, I think that document is what

1 A. Amaya

2 it says. I can't say that's it's real, but the
3 truth is -- my answer is that I did work for
4 that company, and if you could continue with the
5 next question...

6 Q Are you nervous?

7 A No.

8 Q Why are you getting all jumpy?

9 A I'm not getting jumpy.

10 Q You're getting a little sweaty
11 too; right?

12 A It's possible.

13 Q Is it hot in here?

14 A No.

15 Q Do you remember testifying earlier
16 that you worked for Pave-Co in 2005?

17 A No.

18 Q No, you don't remember testifying
19 to that?

20 A I don't remember. I don't
21 remember.

22 Q Did you work for Pave-Co in 2005?

23 A I don't remember.

24 Q Do you remember your name?

25 A Yes, my name is a Alejandro.

1 A. Amaya

2 Q That's just one of the four names;
3 right?

4 A My complete name is Jose Alejandro
5 Amaya Romero.

6 Q Well, welcome to this depression.

7 A Thank you.

8 Q You're welcome.

9 (Document consisting of a copy of
10 Mr. Amaya's W-2 from Powell & Lunati
11 Paving and Construction was marked as
12 Defendants' Exhibit Number 10, for
13 identification, as of this date.)

14 Q I'm going to show you a document
15 marked Defendants's Exhibit 10.

16 Do you see that?

17 A Yes.

18 Q What is that?

19 A It's a copy of the W-2.

20 Q For what year?

21 A (No verbal response.)

22 Q Come on. We're waiting.

23 A For 2010.

24 Q Do you need help?

25 A (No verbal response.)

1 A. Amaya

2 Q Do you need help; si or no?

3 A Yes.

4 Q What do you need help with?

5 A I need to find this one
6 (indicating). I need to see the original.

7 No.

8 MR. McNAMARA: Which one of these
9 stubs is marked -- it's for Lunati.

10 MR. ZABELL: Where are the Lunati
11 ones?

12 Q Did you put it in there (indicating)?

13 A No, these are check stubs
14 (indicating).

15 Q Did you find it?

16 A No.

17 Q Now you have it; correct?

18 A Yes.

19 Q Do you see Defendants' Exhibit 10
20 in front of you?

21 A (No verbal response.)

22 Q Do you see Defendants' 10 in front
23 of you?

24 A Yes.

25 Q What is Exhibit 10?

1 A. Amaya

2 A It's a copy of a W-2, a W-2.

3 Q For what company?

4 A Ralphie Lunati.

5 Q Does it say Ralphie Lunati on it?

6 A No, it doesn't. It's Ralphie
7 Lunati or Lunati Paving.

8 Q Doesn't it say Powell & Lunati
9 Paving and Construction?

10 A Yes.

11 MR. McNAMARA: I just want to ask,
12 if it was possible, that if the witness
13 has trouble reading the exhibits --

14 MR. ZABELL: What you're doing now
15 is coaching.

16 MR. McNAMARA: Could the
17 interpreter, please, assist him in
18 translating it?

19 MR. ZABELL: It's his
20 responsibility to say if he needs
21 assistance. You know that.

22 Q Doesn't it say Powell & Lunati
23 Paving and Construction?

24 A Yes.

25 Q Do you work for Powell & Lunati

1 A. Amaya

2 Paving and Construction?

3 A Yes.

4 Q Not Ralph Lunati, like you've been
5 saying; right?

6 A Yes.

7 Q Why did you give me false
8 information before as to who you worked for?

9 A It's not false.

10 Q Yes, it is.

11 MR. McNAMARA: Objection.

12 A The person who hired me was
13 Lunati. I spoke with him about work. I have no
14 relationship with Powell, because he is not in
15 the company.

16 Q But you work for his company?

17 A Yes.

18 Q So when I asked you what was the
19 name of the company, I don't want to know who
20 the person is you speak to every day. I want to
21 know the name of the company.

22 Am I clear?

23 A Yes.

24 Q So you worked for Powell & Lunati
25 Paving and Construction in 2010; correct?

1 A. Amaya

2 A Yes.

3 Q Didn't you testify you only worked
4 for Suffolk Paving in 2010?

5 A I said that I had worked for
6 Suffolk Paving and for Ralphie Lunati
7 Construction.

8 Q But you didn't work for Ralphie
9 Lunati Construction.

10 MR. McNAMARA: Objection.

11 Q Correct?

12 A (No verbal response.)

13 Q Correct?

14 MR. McNAMARA: Objection.

15 A (No verbal response.)

16 Q Correct?

17 MR. McNAMARA: Objection.

18 A No.

19 Q No?

20 Please, don't lie to me.

21 MR. McNAMARA: Objection.

22 Q In 2009, how did you get to your
23 job sites?

24 A In your (sic) car.

25 After they filed the suit, then we

1 A. Amaya

2 went directly to the job sites in our own
3 personal cars.

4 Q In my car?

5 A In my car.

6 After they filed the suit, the
7 company changed their position, and they said we
8 didn't have to go to the yard, but that we had
9 to go straight to the job site.

10 Q No one ever told you that you had
11 to go to the yard. You just tagged along with
12 Mendez; correct?

13 MR. McNAMARA: Objection.

14 A Because the bosses had to be there
15 at a certain hour, which was 6:30. That was the
16 regular time, but not every day. We wouldn't
17 get there at that time every day. Many times we
18 got there earlier than 6:30.

19 Q You testified before that you only
20 went to the shop because you were bumming a ride
21 with Mendez; correct?

22 A No.

23 Q Yes, that's what you testified.

24 A No. Mendez didn't pick me up. I
25 would go to Mendez's house.

1 A. Amaya

2 Q Right. And Mendez would drive you
3 from his house to the shop, but you would only
4 go with him because you wanted the ride from
5 him; correct?

6 MR. McNAMARA: Objection.

7 A Yes.

8 Q And you didn't have a license to
9 drive in the United States at that time;
10 correct?

11 A Nor do I have one now.

12 Q You would drive to his house, and
13 then he would drive you to the shop, and you
14 would only just wait with him while he got a map
15 to find out where the next place to go was;
16 correct?

17 MR. McNAMARA: Objection.

18 A Yes.

19 Q And sometimes that was only for
20 five minutes; correct?

21 A It depended. If we have to pick
22 up tools, then it would take longer than five
23 minutes.

24 Q But there were always tools in the
25 truck; right?

1 A. Amaya

2 A Not always tools.

3 Q And you didn't need propane; did
4 you?

5 A Sometimes, yes.

6 Q What would you need propane for?
7 You were the setup crew.

8 A Because sometimes we had to go and
9 repair jobs that weren't done well.

10 Q No. You were the setup crew.
11 You weren't anything else;
12 correct?

13 MR. McNAMARA: Objection.

14 A Yes, in general.

15 Q Didn't the box trucks take the
16 propane?

17 A Yes, they did.

18 Q So you had all the tools in
19 Mendez's truck already; correct?

20 You already testified yes.

21 A Yes.

22 Q Stop lying to me about you having
23 to load up tools when you already had tools in
24 the truck.

25 Do you understand?

1 A. Amaya

2 MR. McNAMARA: Objection.

3 Q Do you understand?

4 A (No verbal response.)

5 Q Yes or no?

6 A Yes, I understand.

7 Q So you would go with Mendez,
8 Mendez would go in to get a map, and then you
9 would leave after a few minutes; correct?

10 MR. McNAMARA: Objection.

11 A Yes.

12 Q And Mendez didn't need your help
13 getting the map; correct?

14 A No.

15 Q And you were just along for the
16 ride; correct?

17 A Yes. Because I had to work with
18 him, and he had to take me in the company truck.

19 Q Right. And then you would go and
20 get breakfast; right?

21 A Sometimes.

22 Q Right. And then you would get
23 coffee; right?

24 A One --

25 Q Yes or no?

1 A. Amaya

2 A Once --

3 Q Yes or no?

4 A Sometimes.

5 Q At least once a day?

6 A Sometimes -- once a day.

7 Q Then, you wouldn't get to the job
8 until about 8:30 every morning; correct?

9 MR. McNAMARA: Objection.

10 A No.

11 Q When would you get to the actual
12 job site?

13 A At 7:00, 7:30, 7:15. We never had
14 an exact time where we had to be at the job. It
15 depended on where the job was.

16 Q Sometimes you wouldn't get to the
17 job until 9:00; correct?

18 MR. McNAMARA: Objection.

19 A No.

20 Q I have you signing in on jobs that
21 you didn't get to until 8:30 in the morning.

22 MR. McNAMARA: Objection.

23 Q Correct?

24 A That's correct, because
25 sometimes --

1 A. Amaya

2 Q I don't want the because. I want
3 you to just answer the question.

4 Do you understand? Just answer
5 the question and don't lie.

6 MR. McNAMARA: Objection.

7 Q Do you understand?

8 A (No verbal response.)

9 Q Do you understand?

10 MR. McNAMARA: Objection.

11 Q Do you understand?

12 A Yes, I understand, but --

13 Q No but.

14 A Can you do me the favor of
15 lowering your voice?

16 Q If you do me the favor of only
17 telling me the truth.

18 Do you think you can do that?

19 A I'm saying the truth.

20 Q No, you're not. Even your lawyer
21 doesn't think you are.

22 MR. McNAMARA: Objection.

23 Q Do you know Nelson Quintanilla?

24 A Yes.

25 Q Do you work with Nelson

1 A. Amaya

2 Quintanilla?

3 A I worked with him at
4 Suffolk Paving.

5 Q Did you work with him at Pave-Co?

6 A No.

7 Q Not at all?

8 A Never.

9 Q Do you know where he's working
10 now?

11 A No.

12 Q Do you know Lerly Rodriguez?

13 A Yes.

14 Q Do you work with Lerly Rodriguez
15 now?

16 A No.

17 Q Did you work with him at
18 Suffolk Paving?

19 A Yes.

20 Q Do you find Lerly to be honest?

21 A Yes.

22 Q You know Maynor Fajardo?

23 A Yes, I know him.

24 Q Do you know if he ever lies?

25 A I don't know if he lies.

1 A. Amaya

2 Q What if I told you that he told me
3 that he lies?

4 A I don't know.

5 Q He said he lies to women to
6 conquer them.

7 A I'm not following him to be able
8 to confirm that.

9 Q Do you know Renato Guerra?

10 A No. I know Renato, not Renato
11 Guerra. I know Renato Fajardo.

12 Q Do you know if Renato Fajardo is
13 the same person as Renato Guerra?

14 A I don't know.

15 Q Do you know if Renato Fajardo ever
16 borrowed money from Louis Vecchia?

17 A No.

18 Q Do you know if Maynor Fajardo ever
19 bought a car from Louis Vecchia?

20 A No.

21 Q Did you ever borrow money from
22 Louis Vecchia?

23 A No.

24 Q Why not?

25 A I never had the necessity to

1 A. Amaya

2 bother him.

3 Q You're bothering him now.

4 MR. McNAMARA: Objection.

5 Q Did you know that?

6 A Yes. But because of the work that
7 he didn't pay me for.

8 Q Did you work with Lerly Rodriguez
9 at Suffolk Paving?

10 A Yes, but not always. Sometimes.

11 Q Do you know how his employment
12 came to end at Suffolk Paving?

13 A No.

14 Q When was the last time you spoke
15 to Lerly Rodriguez?

16 A I don't recall. A long time. I
17 haven't spoken with him in a long time.

18 Q When was the last time you spoke
19 to Nelson Quintanilla?

20 A A week ago.

21 Q What did you discuss with him?

22 A About work, that he wasn't
23 working, that he had just gotten a job, but he
24 wasn't working much. Personal things.

25 Q Did he tell you that he lied to

1 A. Amaya

2 unemployment?

3 A No.

4 Q Do you think he's a liar?

5 A I can't really say if he's a liar
6 or not.

7 Q You can't?

8 A No, because I don't know. The
9 truth is that I can't confirm if he's a liar or
10 not.

11 Q Do you know who Alex Amir Arevalo
12 is?

13 A Yes.

14 Q When was the last time you spoke
15 to him?

16 A I haven't spoken to him in a long
17 time. It's been about eight or nine months
18 since I've spoken to him.

19 Q When was the last time you spoke
20 to Pracelis Mendez?

21 A With Pracelis, I spoke with him
22 three days ago.

23 Q What did you discuss with him?

24 A He's the one who let me know. He
25 reminded me of the date of the interview.

1 A. Amaya

2 Q What interview?

3 A This one that we're doing now.

4 Q This is not an interview, sir.

5 This is a deposition.

6 Don't you know that?

7 A Yes.

8 Q What level of education do you
9 have?

10 A Ninth.

11 Q Ninth what?

12 A It's ninth in our country. It's
13 number nine, number nine. I didn't do high
14 school in my country.

15 Q Did you ever do any side work?

16 A Besides Suffolk Paving?

17 Q Yes.

18 A No.

19 Q You never did some work on the
20 weekend to make some extra money?

21 A One or two times, that's it.

22 Practically nothing.

23 Q Were you paid in check or cash?

24 A Cash.

25 Q Did you report that cash on your

1 A. Amaya

2 income tax returns?

3 A No.

4 MR. McNAMARA: I would like any
5 discussion regarding the witness's income
6 tax payments to be marked as
7 confidential, including any discussion
8 about cash payments and whether or not
9 they were reported to the IRS.

10 MR. ZABELL: I will not consent to
11 such a designation. I believe there is
12 an agreement in place that provides to
13 you directions on what steps you need to
14 take to maintain this.

15 You may want to take a moment to
16 speak with your client, as well,
17 regarding giving additional testimony on
18 this particular subject; particularly
19 that amendment; okay?

20 MR. McNAMARA: Come outside with
21 me for a second.

22 (Whereupon, a recess was taken at
23 this time from 3:31 p.m. until 3:55 p.m.)

24 MR. ZABELL: What was the last
25 question and answer?

1 A. Amaya

2 (Whereupon, the requested portion
3 of the record was read by the court
4 reporter.)

5 Q How much money did you receive for
6 these side jobs?

7 A Maybe \$150 and it was about two or
8 three days. Not for Suffolk Paving. It was for
9 a different person.

10 Q Who?

11 A Mendez.

12 Q Mendez hired you to work when both
13 of you were working for Suffolk Paving?

14 A He was the one that recommended me
15 for work at Suffolk Paving.

16 Q You did work for Mendez; correct?

17 A Yes, but about two or three times.

18 Q And Mendez paid you in cash;
19 correct?

20 A Yes.

21 Q What was the name of Mendez's
22 company?

23 A No, he doesn't have a company. He
24 got those jobs. He knows the work and he did
25 it.

1 A. Amaya

2 Q He just did side work.

3 Did you work on Saturdays and
4 Sundays?

5 A Saturday and Sunday.

6 Q How many hours a day?

7 A Eight hours.

8 Q Only eight hours?

9 A Yes.

10 Q Why only eight hours?

11 A Because they were weekend days,
12 and maybe on Sundays, people had to go out, and
13 we couldn't make a lot of noise at the jobs.

14 Q What were the names of those jobs?

15 A I don't know them. I don't know
16 the names.

17 Q Did you use any Suffolk Paving
18 equipment?

19 A He has his own tools. On one or
20 two occasions, he used company truck, but with
21 Louie's authorization; the owner of the company.

22 Q How do you know he had Louie's
23 authorization?

24 A Because he said that he was using
25 the truck, because he had spoken with his boss,

1 A. Amaya

2 and he had lent him, but he always would pay him
3 for using the truck.

4 Q Did you ever see him pay him?

5 A No, I didn't.

6 Q So he might have lied to you, like
7 you've lied to me today; right?

8 A It's possible.

9 Q Do you have any hobbies?

10 A Yes. Sometimes I go to church.

11 Q When do you go to church?

12 A On Sundays.

13 Q From when to when?

14 A Sometimes every two weeks or
15 monthly. Not every weekend.

16 Q Do you ever go to confession?

17 A No.

18 Q Why?

19 MR. McNAMARA: Objection.

20 A Because there are rules at my
21 church saying that I can't do that.

22 Q What rules are those?

23 MR. McNAMARA: Objection.

24 A The churches have -- in order to
25 go to confession, you have to receive certain

1 A. Amaya

2 sacraments, and if you don't have them, then you
3 can't do it.

4 Q What sacraments are those?

5 MR. McNAMARA: Objection.

6 A I don't really know which
7 sacraments they are. I know that you have to
8 ask, but I think that question is out of
9 context.

10 Q What church do you belong to?

11 MR. McNAMARA: Objection.

12 A The Catholic.

13 Q What actual church do you go to?

14 MR. McNAMARA: Objection.

15 A St. Luke.

16 Q Where is St. Luke Church located?

17 MR. McNAMARA: Objection.

18 A On Wicks Road.

19 Q In what town?

20 A Brentwood.

21 Q Who is the priest in charge?

22 MR. McNAMARA: Objection.

23 A I don't know his name.

24 Q You said you go every other
25 weekend, so how do you not know his name?

1 A. Amaya

2 MR. McNAMARA: Objection.

3 Q If you don't know his name, how
4 can I test whether what you're saying to me is
5 the truth?

6 A Well, if you don't want to believe
7 me, it's up to you.

8 Q I don't want to believe you, but
9 that's why you have the ability now to prove me
10 wrong.

11 Go ahead.

12 MR. McNAMARA: Objection.

13 Q This is church that you go to
14 every other week, and you don't know the
15 priest's name?

16 MR. McNAMARA: Objection.

17 Q I'm assuming it starts with
18 Father?

19 MR. McNAMARA: Objection.

20 A I don't know his name. I can't
21 respond to that, because I don't know his name.

22 Q Did you ever know his name?

23 A No.

24 Q Do you know any of the Fathers at
25 the church?

1 A. Amaya

2 A No.

3 Q How long have you been going to
4 this church?

5 MR. McNAMARA: Objection.

6 A I don't remember how long.

7 Q A week?

8 MR. McNAMARA: Objection.

9 A (No verbal response.)

10 Q You need to answer.

11 A More than a week.

12 Q Two weeks?

13 A More.

14 Q Six weeks?

15 A Around there, six.

16 Q So you just started going to
17 church?

18 A I've always gone, but now I'm
19 doing it more frequently.

20 Q So you've always gone to this
21 church?

22 A Yes.

23 Q How long is "always"?

24 MR. McNAMARA: Objection.

25 A Every two weeks, every month.

1 A. Amaya

2 It's not every weekend.

3 Q Are you lying to me about going to
4 church?

5 MR. McNAMARA: Objection.

6 A I go to church.

7 Q I think it's a big sin if you lie
8 about going to church.

9 A Yes, I understand, but I'm telling
10 you the truth that I do go.

11 Q For how long have you been going
12 to church?

13 MR. McNAMARA: Objection.

14 A (No verbal response.)

15 Q I'm waiting for an answer.

16 A I can't give you an answer, an
17 exact answer, because I don't know exactly how
18 many times a year I go to church.

19 Q I'm not asking you how many times
20 a year.

21 I'm asking: How many years have
22 you been going to church?

23 A For many years.

24 Q How many years?

25 A Since -- the Fathers have showed

1 A. Amaya

2 me since the beginning, but I don't do it often,
3 but I've always been going to church.

4 Q How long have you been going to
5 church in Brentwood?

6 MR. McNAMARA: Objection.

7 Q Ten years?

8 A (No verbal response.)

9 Q Ten years?

10 MR. McNAMARA: Objection.

11 A No.

12 Q More or less?

13 A Less.

14 Q One year?

15 MR. McNAMARA: Objection.

16 A (No verbal response.)

17 Q You have to answer. Stop it.

18 A Yes, approximately, a year.

19 Q See, was that so hard?

20 A No, it's not difficult, but I feel
21 that it's not related to the case.

22 Q So you've been going to church for
23 a year, and you don't know who the priest is?

24 A I don't know.

25 Q Does he know who you are?

1 A. Amaya

2 A No.

3 Q Does he know who your family is?

4 A Yes.

5 Q Then, why doesn't he know you?

6 A Because my family goes more
7 frequently.

8 Q Did you ever go inside the office
9 at Suffolk Paving?

10 A Yes.

11 Q When did you do that?

12 A It was on a few occasions that I
13 went into the office. Maybe when I went to get
14 my check, but I hardly ever did it.

15 Q Did you ever see a bulletin board
16 when you walked in?

17 A Yes.

18 Q Were there posters on the board?

19 A I really don't remember.

20 Q Did you ever look at them?

21 MR. McNAMARA: Objection.

22 A No, I don't recall.

23 Q Do you know if any of them told
24 you that you don't have to go to the office in
25 the mornings and you can go directly to the job

1 A. Amaya

2 site?

3 MR. McNAMARA: Objection.

4 A Can you repeat the question?

5 Q No. I want you to answer it.

6 A If there wasn't a work order, it
7 was because we knew the day before where the
8 work was going to be.

9 Q So you're saying on some days, you
10 used to go directly to the job site?

11 A Yes, some days. Where, for
12 example, you didn't finish the work in the one
13 day, we had to return to the same job site the
14 next day.

15 Q I see.

16 How often would that occur; once
17 twice, three times a week?

18 A Very few times.

19 Q About twice a week?

20 A No. We didn't do that very often.

21 Q About twice a week; right?

22 MR. McNAMARA: Objection.

23 A (No verbal response.)

24 Q Right?

25 A No.

1 A. Amaya

2 Q Three times a week?

3 A No.

4 Q Four times a week?

5 MR. McNAMARA: Objection.

6 A No.

7 Q Were you working with Mendez all
8 the time?

9 A Yes, most of the time; yes.

10 Q And you worked very closely with
11 him; right?

12 A Yes.

13 Q Did he complain all the time?

14 A Yes.

15 Q He complained to you; right?

16 A He would complain to the boss.

17 Q Did he ever complain to you?

18 A Yes. On some occasions, he told
19 me that he wasn't paying the overtime, and I
20 knew it, because I knew about the hours that
21 were worked every week.

22 Q Did he ever complain to the union?

23 A I can't really say if he
24 complained to the union.

25 Q Did you ever see the union

1 A. Amaya

2 question him?

3 A No.

4 Q Do you know if he ever told the
5 union that you weren't a union employee?

6 A No, I don't know.

7 Q Did you ever get paid
8 prevailing-wage rates?

9 A Yes.

10 Q How much are prevailing-wage
11 rates?

12 A Prevailing-wage rates are for
13 State jobs. You get paid better than regular
14 jobs.

15 Q Did you ever get paid
16 prevailing-wage rates?

17 A Yes.

18 Q How much were those rates?

19 A When the company didn't have a
20 union at first, they paid me \$47 an hour, and
21 after three years after I started working with
22 the company, I was earning \$51 an hour, but
23 those were prevailing-wage jobs.

24 Q And you got paid prevailing-wage
25 rates when you worked on prevailing-wage jobs;

1 A. Amaya

2 correct?

3 A Yes.

4 Q All the time; correct?

5 A Not overtime.

6 Q All the time?

7 A Yes.

8 Q Do you know that your lawyer
9 claimed in your complaint that you didn't get
10 paid prevailing-wage rates? Did you know that?

11 A Let me --

12 Q Yes or no?

13 A Let me explain.

14 Q No, don't explain. Just answer.

15 A Yes.

16 Q But you just testified you got
17 paid prevailing-wage rates; didn't you?

18 A Yes.

19 Q So your lawyers are lying now;
20 right?

21 MR. McNAMARA: Objection.

22 A I don't know. I don't know.

23 Q They're lying to try and steal
24 money for you; correct?

25 MR. McNAMARA: Objection.

1 A. Amaya

2 Q Correct?

3 MR. McNAMARA: Objection.

4 A I am not lying. I wouldn't be
5 here if --

6 Q But you hired somebody to lie for
7 you; correct?

8 MR. McNAMARA: Objection.

9 Q Correct?

10 A I didn't hire anyone to lie.

11 Q That's what your lawyers are doing
12 when they say you never received prevailing-wage
13 rates.

14 MR. McNAMARA: Objection.

15 Q They're lying for you.

16 A They're not.

17 Q So you'll lie for your benefit,
18 and you'll hire someone else to lie for your
19 benefit; right?

20 MR. McNAMARA: Objection.

21 Q Right?

22 A (No verbal response.)

23 Q Right?

24 A No.

25 Q Did you lie to me here today?

1 A. Amaya

2 A No.

3 Q Do you remember earlier today
4 saying that you did lie to me?

5 A (No verbal response.)

6 Q Yes?

7 A Yes.

8 Q So you did lie to me; right?

9 A Yes.

10 Q Then, stop denying it. If you're
11 admitting that you lied to me, don't deny that
12 you lied to me.

13 MR. McNAMARA: Objection.

14 Q Do you understand?

15 A (No verbal response.)

16 Q Do you understand what I am saying
17 to you?

18 MR. McNAMARA: Objection.

19 A (No verbal response.)

20 Q Yes or no?

21 A (No verbal response.)

22 Q Yes or no?

23 MR. McNAMARA: Objection.

24 A No.

25 Q You don't understand what I'm

1 A. Amaya

2 saying to you? What don't you understand?

3 A I'm not going to understand it the
4 way that you're telling me.

5 Q Okay. Let's take a step back.

6 You admitted to lying to me today;
7 correct?

8 MR. McNAMARA: Objection.

9 Q Come on. Answer, please.

10 A (No verbal response.)

11 Q You admitted lying to me today;
12 correct?

13 MR. McNAMARA: Objection.

14 A I understand that it's your job,
15 and you're trying to confuse me, but you're
16 confusing me with the questions.

17 Q Did you admit to lying to me
18 today?

19 MR. McNAMARA: Objection.

20 A (No verbal response.)

21 Q We know the answer. You could say
22 it.

23 A (No verbal response.)

24 MR. ZABELL: Tell him to answer.

25 MR. McNAMARA: You can answer the

1 A. Amaya

2 question.

3 A No.

4 Q You didn't admit to lying to me
5 today?

6 A Yes. But I said that I was sorry.

7 Q You lied to me today, and you
8 think it's okay, because you said you're sorry;
9 right?

10 MR. McNAMARA: Objection.

11 A (No verbal response.)

12 Q It's all right. I won't ground
13 you.

14 MR. McNAMARA: Objection.

15 A (No verbal response.)

16 Q Just say it, so we can move on.

17 A (No verbal response.)

18 Q It's all right. Say it.

19 A (No verbal response.)

20 Q Say it.

21 A Yes. I'm not lying. I'm saying
22 what I think.

23 Q So you lied to me before, and you
24 think it's okay, because you said you were
25 sorry; correct?

1 A. Amaya

2 MR. McNAMARA: Objection.

3 A (No verbal response.)

4 Q You're going to be here for a very
5 long time if you don't start answering my
6 questions.

7 A Okay, there's not a problem.

8 Q Did you lie to me today?

9 A (No verbal response.)

10 Q Did you lie to me today?

11 A I said yes, and I asked you for
12 your forgiveness.

13 Q Did you lie to me to get something
14 that you wanted?

15 A I'm not lying. If it were that
16 way, I wouldn't be here wasting my time.

17 Q But you are here wasting your
18 time; correct?

19 MR. McNAMARA: Objection.

20 A Yes, but it's because I'm fighting
21 for my rights.

22 Q Your right to lie?

23 MR. McNAMARA: Objection.

24 Q Is that how you fight for your
25 rights, by lying? Why don't you fight for your

1 A. Amaya

2 rights by telling the truth?

3 You can't even tell me the truth
4 about going to church.

5 MR. McNAMARA: Objection.

6 Q Why should we believe you about
7 the hours you claim you went to work?

8 Really, I don't understand you.

9 MR. McNAMARA: Objection.

10 A (No verbal response.)

11 Q If you had nothing to hide, you'd
12 hide nothing.

13 MR. McNAMARA: Objection.

14 A I'm not hiding anything.

15 Q Sure you are.

16 A I'm not doing that.

17 Q Okay. What is your priest's name?

18 MR. McNAMARA: Objection.

19 A I don't know it.

20 Q You're hiding it.

21 What were the jobs that you worked
22 on in 2009 for Suffolk Asphalt?

23 MR. McNAMARA: Objection.

24 A I don't remember the job sites.

25 Q What days in 2010 did you work

1 A. Amaya

2 overtime?

3 A Every day.

4 Q Even the rain days?

5 A Except the rain days.

6 Q Did you work overtime on Sundays?

7 A On occasions. Many times, we
8 worked on Saturdays.

9 Q I didn't ask you about Saturdays.
10 I asked you about Sundays.

11 A No.

12 Q What days did you get paid
13 overtime for in 2009?

14 A (No verbal response.)

15 Q Come on.

16 A I don't know what days.

17 Q What days did you get paid
18 overtime for in 2008?

19 A I don't know for which days.

20 Q What days did you get paid
21 overtime for in 2007?

22 A I can't give you exact days
23 because --

24 Q What days did you get paid
25 overtime for in 2006?

1 A. Amaya

2 MR. McNAMARA: Objection.

3 A (No verbal response.)

4 Q Answer the question.

5 A I can't give you exact days. I
6 don't know which days they paid me.

7 Q So you have no idea what days
8 you got paid overtime for throughout your
9 employment with Suffolk Paving; correct?

10 MR. McNAMARA: Objection.

11 A I don't know which days.

12 Q And you have know idea what jobs
13 you worked on for Suffolk Asphalt throughout
14 your career with them; correct?

15 A I know that I worked for
16 Suffolk Asphalt, but the exact places, I don't
17 remember.

18 Q And you have no idea where you
19 worked for Suffolk Paving; correct?

20 MR. McNAMARA: Objection.

21 A (No verbal response.)

22 Q Correct?

23 A I have an idea of where I worked,
24 but if you want me to give the details about
25 where I worked, let's make time, and I'll go and

1 A. Amaya

2 show you.

3 Q I want you to tell me. Tell me.

4 A But you're asking where the job
5 site --

6 Q Anybody can drive around and see
7 blacktop and say they worked there. I want you
8 to tell me the places you worked.

9 MR. McNAMARA: Objection.

10 A I can't give you exact places,
11 because I don't remember.

12 Q You testified that you got paid
13 prevailing-wage rates at times; correct?

14 A You can see by my taxes. You can
15 see by the taxes.

16 Q You filed your taxes?

17 A Yes.

18 Q In what years?

19 A Every year.

20 Q All the money you made?

21 A All of the money for the companies
22 that I've worked for.

23 Q What about the cash payments you
24 received for Baseball Heaven, for Pracelis
25 Mendez, and any other time you received cash?

1 A. Amaya

2 A No, I can't.

3 Q When you received cash from
4 Suffolk Asphalt?

5 A I never received cash from
6 Suffolk Asphalt.

7 Q And when you received cash from
8 Suffolk Paving?

9 A I never received cash from Suffolk
10 Paving.

11 Q Do you remember testifying earlier
12 that you did receive cash?

13 MR. McNAMARA: Objection.

14 A No.

15 Q You never got any cash from
16 Suffolk Paving?

17 A Never.

18 Q You know nobody believes you;
19 right?

20 MR. McNAMARA: Objection.

21 A They never gave it to me. Why
22 should I be hiding something? If they would
23 have given me cash on certain occasions, why
24 would I deny it?

25 Q Because you're afraid to tell the

1 A. Amaya

2 truth.

3 MR. McNAMARA: Objection.

4 Q We can tell when you're lying
5 because you clench your jaw.

6 MR. McNAMARA: Objection.

7 Q And you wrench your hands.

8 MR. McNAMARA: Objection.

9 Q And your face gets all sweaty.

10 MR. McNAMARA: Objection.

11 Q And you look at me like you're
12 angry.

13 MR. McNAMARA: Objection.

14 Q That's why.

15 MR. McNAMARA: Objection.

16 A It's good that God gave you that
17 thing so that you can see what I'm feeling.

18 Q When you worked on prevailing-wage
19 jobs, you got paid prevailing-wage rates;
20 correct?

21 MR. McNAMARA: Objection.

22 A (No verbal response.)

23 Q Come on. Answer.

24 A (No verbal response.)

25 Q Answer.

1 A. Amaya

2 A Yes.

3 Q Why was that so difficult to
4 answer?

5 A No. Because the way you're
6 insisting, and the way you're asking me every
7 question bothers me.

8 Q Deal with it.
9 Do you understand?

10 A Yes.

11 Q Did your attorney ever tell you
12 that there was an offer to settle this case?

13 MR. McNAMARA: Objection.

14 I'm instructing my client not to
15 answer.

16 Q Are you aware that there was an
17 offer to settle this case?

18 MR. McNAMARA: Objection.

19 MR. ZABELL: You don't have a
20 right to.

21 MR. McNAMARA: Yes, I do.

22 MR. ZABELL: You absolutely don't.

23 MR. McNAMARA: I do. Settlement
24 discussions are between attorney and
25 client.

1 A. Amaya

2 MR. ZABELL: No, they are not.

3 MR. McNAMARA: Yes, they are.

4 It's privileged.

5 Q Are you aware that there was an
6 offer to settle this case?

7 MR. McNAMARA: Objection.

8 Don't answer that question.

9 MR. ZABELL: If we can establish
10 that a settlement offer was made and he's
11 unaware of it, then aside from the fact
12 that you and your co-counsel are in
13 violation of several canons of ethics
14 and he is still unaware that the
15 settlement offer has been made, then,
16 A; it is completely discoverable, and
17 B; the actions of the attorneys involved
18 are sanctionable.

19 I can ask him that question.
20 I'm not asking him to reveal any
21 conversations he's had with you. I'm
22 asking if he's been made aware that there
23 was an offer to settle this case.

24 MR. McNAMARA: Right. You're
25 asking privileged material.

1 A. Amaya

2 MR. ZABELL: It's not privileged.
3 It's a settlement offer that was made,
4 not from you.

5 MR. McNAMARA: Right, but you're
6 asking about the discussion between an
7 attorney and a client.

8 MR. ZABELL: No. I'm asking if
9 he's aware that there has been a
10 settlement offer.

11 MR. McNAMARA: Yes, if the
12 discussion took place.

13 MR. ZABELL: No. It absolutely
14 has nothing to do with that.

15 MR. McNAMARA: Yes, it does.

16 Q Are you aware that there has been
17 a settlement offer in this case?

18 MR. McNAMARA: You don't have to
19 answer that.

20 Q Yes, you do.

21 MR. McNAMARA: No, he doesn't.

22 MR. ZABELL: He's going to have to
23 come back.

24 MR. McNAMARA: That's not true.

25 MR. ZABELL: It is true.

1 A. Amaya

2 Q Are you aware?

3 A (No verbal response.)

4 Q You can answer.

5 A Yes.

6 Q Do you know how much that
7 settlement offer was?

8 A Supposedly \$100,000. That's what
9 my attorney said.

10 Q Were you given an opportunity to
11 accept that settlement?

12 A That will never be accepted.

13 Q Were you given an opportunity to
14 accept it?

15 A No.

16 Q Were you made aware that if you
17 did not accept it and you lied at the
18 deposition, like you did today --

19 Mr. McNAMARA: Objection.

20 Q -- you could end up being charged
21 with perjury?

22 MR. McNAMARA: Objection.

23 A (No verbal response.)

24 Q You may answer.

25 A (No verbal response.)

1 A. Amaya

2 Q Are you going to answer?

3 A I don't remember if my attorney
4 told me that or not.

5 Q Do you know as a result of your
6 testimony today, the questions that were
7 submitted to you and your answers will be
8 reported to the Court to determine if the
9 various occasions wherein you admitted lying to
10 me constitutes perjury?

11 MR. McNAMARA: Objection.

12 Q Are you aware of that?

13 A (No verbal response.)

14 Q You need to provide an answer.

15 A (No verbal response.)

16 Q You need to provide an answer now.

17 A (No verbal response.)

18 Q Let's go. Provide an answer.

19 A (No verbal response.)

20 Q Can I get an answer, please?

21 A Yes.

22 Q How does that make you feel?

23 MR. McNAMARA: Objection.

24 A (No verbal response.)

25 Q Come on. Provide an answer.

1 A. Amaya

2 A (No verbal response.)

3 Q Can I get an answer, please?

4 A (No verbal response.)

5 Q You seem to be staring off into
6 space.

7 You need to provide an answer.

8 A Yes.

9 Q Yes, what?

10 A (No verbal response.)

11 Q Are you planning on answering, or
12 are you going to sit there all day?

13 A (No verbal response.)

14 Q Where you ever advised about the
15 possibility of perjury?

16 MR. McNAMARA: Objection.

17 A I don't remember if my attorneys
18 explained it to me or not. I don't remember.

19 Q Didn't I explain it to you this
20 morning?

21 A (No verbal response.)

22 Q Didn't I?

23 A Yes.

24 Q So you knew about it; right?

25 A (No verbal response.)

1 A. Amaya

2 Q Right?

3 A Yes.

4 Q And yet, you continued to lie to
5 me throughout the day; correct?

6 A Yes. That's what you've done.
7 You've confused me with the questions.

8 Q And because you were confused, you
9 lied; correct?

10 MR. McNAMARA: Objection.

11 A (No verbal response.)

12 Q Correct?

13 A (No verbal response.)

14 Q Correct?

15 A (No verbal response.)

16 Q Answer the question, sir.

17 A (No verbal response.)

18 Q Answer the question, sir.

19 A Yes.

20 MR. ZABELL: I'm going to adjourn
21 this deposition without a date.

22 Counselor, we're going to have to
23 discuss getting this transcript before
24 the Magistrate to determine how we can
25 depose this individual and have him maybe

1 A. Amaya

2 tell the truth.

3 We'll adjourn this. It's now
4 4:40, and I've had maybe four hours of
5 deposition today, and we'll figure out
6 what we are going to do.

7 Okay, Counselor?

8 MR. McNAMARA: That's fine.

9 MR. ZABELL: Very good, and I'm
10 reserving my right to continue.

11 Thank you.

12 (Time noted: 4:45 p.m.)

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A C K N O W L E D G E M E N T

STATE OF NEW YORK)
 : ss
COUNTY OF)

I, ALEJANDRO AMAYA, hereby certify that I
have read the transcript of my testimony taken
under oath in my deposition of September 21, 2011;
that the transcript is a true, complete and
correct record of my testimony; and that the
answers on the record as given by me are true
and correct.

ALEJANDRO AMAYA

Signed and subscribed to before me
this ____ day of _____, 2011.

Notary Public, State of New York

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C E R T I F I C A T E

I, KAREN LaMENDOLA, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the witness(es) whose testimony is herein before set forth was duly sworn by me, and the foregoing transcript is a true record of the testimony given by such witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.


KAREN LaMENDOLA

1

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